
RFP
Attachment 4: EPC Agreement

ENGINEERING, PROCUREMENT
AND CONSTRUCTION CONTRACT
FOR
[_____] POWER PROJECT

BETWEEN

PACIFICORP

AND

[_____]

Dated as of

[_____, 2012]

TABLE OF CONTENTS

PAGE

1. DEFINITIONS AND RULES OF INTERPRETATION.....	11
2. AGREEMENT, EXHIBITS, CONFLICTS.....	26
2.1. Exhibits	26
2.2. Terms; References.....	26
2.3. Conflicts in Documentation	27
2.4. Documentation Format.....	27
3. RESPONSIBILITIES OF OWNER.....	28
3.1. Owner’s Project Representative	28
3.2. Operating Personnel	28
3.3. Ministerial Assistance	28
3.4. Production and Construction Inputs	28
3.5. Owner Acquired Permits	28
3.6. Access to Site	28
3.7. Payments	28
3.8. Owner Hazardous Materials.....	28
3.9. Tie-in Outage	29
4. RESPONSIBILITIES OF CONTRACTOR.....	29
4.1. Performance of Work.....	29
4.2. Facilities	30
4.3. Organization.....	30
4.4. Staff/Construction Manager	30
4.5. Contractor Acquired Permits.....	30
4.6. Inspection	30
4.7. Baseline Materials and Contractor Duty to be Fully Informed	30
4.8. Existing Foundations and Structures	31
4.9. Differing Site Conditions	32
4.10. Maintenance of Site.....	32
4.11. Adherence to Owner’s Site Specific Policies	32
4.12. Final Cost Report Requirements	33
4.13. Safeguards.....	33
4.14. Equipment	33
4.15. Temporary Materials	33
4.16. Operating Consumables	34
4.17. Applicable Laws/Permits	34
4.18. Replacement at Owner’s Request.....	35
4.19. Quality Assurance Programs	35
4.20. Access	35
4.21. Documents at Site	35
4.22. Other Assistance.....	36
4.23. Data; Drawings and Manuals	36
4.24. Training of Operating Personnel	36
4.25. Announcements; Publications	36
4.26. Cooperation and Non-Interference.....	37
4.27. Project Manager and Key Personnel	37
4.28. Documents Requested by Owner	37
4.29. Critical Path Schedule	37
4.30. Monthly Progress Report	38
4.31. Accident Reports.....	38

4.32.	Punchlist.....	39
4.33.	Measurements	39
4.34	Meetings.....	39
4.35.	Spare Parts.....	39
4.36.	Hazardous Materials.....	39
4.37.	Design of Project.....	40
4.38.	Audit	40
4.39.	Operations of Existing Facility	41
5.	COVENANTS, WARRANTIES AND REPRESENTATIONS	41
5.1.	Of Contractor	41
5.1.1.	Organization, Standing and Qualification	41
5.1.2	Professional Skills	41
5.1.3.	Enforceable Contract.....	41
5.1.4.	Due Authorization	42
5.1.5.	Contractor’s Investigation of the Site Conditions	42
5.1.6.	Government Approvals	42
5.1.7.	No Suits, Proceedings.....	42
5.1.8.	Patents	43
5.1.9.	Legal Requirements.....	43
5.1.10.	Business Practices.....	43
5.1.11.	Turnkey Project	43
5.1.12.	Owner-Provided Information.....	43
5.1.13.	[Reserved].....	43
5.1.14.	Financial Condition	44
5.1.15.	Licenses	44
5.1.16.	Building Codes	44
5.1.18.	No Prototype Equipment or Designs	44
5.2.	Of Owner.....	44
5.2.1.	Organization, Standing and Qualification	44
5.2.2.	Enforceable Contract.....	44
5.2.3.	Due Authorization	44
5.2.4.	Governmental Approvals.....	44
5.2.5.	No Suits, Proceedings.....	44
5.2.6.	Business Practices	45
5.2.7.	Financial Condition	45
5.2.8.	Owner Acquired Permits	45
6.	COST OF WORK.....	45
6.1.	Contract Price.....	45
6.2.	All Items of Work Included	45
7.	TERMS OF PAYMENT.....	46
7.1.	Contractor’s Invoices	46
7.2.	Certification by Contractor.....	46
7.3.	Subcontractor Statements.....	47
7.4.	Owner Review; Payments	48
7.5.	Retainage.....	48
7.6.	Final Payment	48
7.7.	Disputes.....	49
7.8.	Method of Payment	50
7.9.	Holdbacks.....	50
7.10.	Release of Liability	51
7.11.	Taxes; Sales Taxes; Tax Administration and Payment	51
7.12.	All Payments in Dollars	52
7.13.	[Reserved].....	34

8.	COMMENCEMENT AND PROSECUTION OF THE WORK	53
8.1.	Notice to Proceed	53
8.2.	Prosecution of Work	54
8.3.	Schedule Recovery Plan.....	55
9.	FORCE MAJEURE.....	55
9.1.	Events of Force Majeure	55
9.2.	Notice.....	55
9.3.	Scope of Suspension; Duty to Mitigate.....	55
9.4.	Removal of Force Majeure.....	56
9.5.	Responsibility of Contractor	56
9.6.	Contractor’s Force Majeure Remedy	56
10.	SUBCONTRACTORS.....	56
10.1.	Use of Subcontractors; Owner’s Right to Object.....	56
10.2.	No Approvals; Contractor Responsible for Work.....	57
10.3.	Assignment.....	57
10.4.	Information; Access	57
11.	LABOR RELATIONS.....	57
11.1.	General Management of Employees.	57
11.2.	Labor Disputes	58
11.3.	Personnel Documents.....	58
11.4.	Merit Shop Requirements.....	58
11.5.	Collective Bargaining Agreements.....	59
11.6.	Utah Commencement Filing	59
11.7.	Scarcity and Quality Labor	59
11.8.	Equal Employment Opportunity and Othe Non-Discrimination Clauses.....	59
11.9.	Workers Compensation	60
12.	INSPECTION; EFFECT OF REVIEW AND COMMENT	60
12.1.	Inspection	60
12.2.	Right to Reject Work	60
12.3.	Third Party Inspection.....	60
12.4.	Deliverables Schedule.....	60
12.5.	Owner Review of Deliverables	61
12.6.	Remedy of Defects	61
12.7.	Limitation on Owner’s Obligations.....	61
13.	MECHANICALCOMPLETION OF THE WORK.....	62
13.1.	Mechanical Completion	62
13.2.	Owner’s Certification of Mechanical Completion	62
13.3.	Correction of Deficiencies	62
13.4.	Early Operation of the Project.....	63
14.	TESTS AND TEST PROCEDURES.....	63
14.1.	Performance Tests.....	63
14.2.	Emissions Guarantee	64
14.3.	Cost and Direction.....	64
14.4.	Owner’s Right to Validate.....	64
14.5.	Additional Performance Tests	65
14.6.	Timing.....	65
14.7.	Test Reports	65
14.8.	Failure on Tests	66

15. SUBSTANTIAL COMPLETION AND FINAL COMPLETION OF THE PROJECT	66
15.1. Substantial Completion	66
15.2. Owner’s Certificate of Substantial Completion	68
15.3. Operation of the Facility	68
15.4. Operating Consumables	68
15.5. Access Following Substantial Completion.....	68
15.6. Final Completion.....	69
15.7. Owner’s Certificate of Final Completion	70
15.8. Changes in Guaranteed Dates	70
16. DELAY AND PERFORMANCE LIQUIDATED DAMAGES; AND BUY-DOWN AMOUNTS	70
16.1. General	70
16.2. Liquidated Damages for Delay in Substantial Completion	71
16.3. Liquidated Damages for Net Capacity and Net Heat Rate	71
16.4. Liquidated Damages for Startup and Commissioning.....	71
16.5. Availability.....	71
16.6. Calculations and Payments of Liquidated Damages	72
17. CHANGES IN THE WORK.....	72
17.1. Change In Work	72
17.2. By Owner	73
17.3. By Contractor.....	73
17.4. Adjustments to this Contract	73
17.5. Force Majeure	74
17.6. Disputes.....	74
17.7. Procedures.....	74
17.8. No Suspension.....	75
18. WARRANTIES CONCERNING THE WORK	75
18.1. Warranty.....	75
18.2. Warranty Extension.....	75
18.3. Enforcement After Expiration	75
18.4. Exclusions	76
18.5. Subcontractor Warranties.....	76
18.6. Correction of Defects	76
18.7. Limitations On Warranties	77
19. EQUIPMENT IMPORTATION; TITLE	77
19.1. Importation of Equipment	77
19.2. Title	78
19.3. Protection	78
20. DEFAULT	78
20.1. Contractor Events of Default.....	78
20.2. Owner’s Rights and Remedies	80
20.3. Damages for Contractor Default	81
20.4. Owner Event of Default	82
20.5. Contractor’s Remedies	82
21. EARLY TERMINATION	82
21.1. General.....	82
21.2. Claims for Payment.....	83
21.3. Termination Payments	83
22. SUSPENSION	83

22.1.	General	83
22.2.	Contractor’s Termination and Compensation Rights	84
22.3.	Extension of Time	84
22.4.	Claims for Payment	85
23.	INSURANCE AND BONDS	85
23.1.	General	85
23.2.	Subrogation Waivers	85
23.3.	Evidence of Insurance	86
23.4.	Insurance Coverages	86
23.5.	Failure to Maintain Insurance	86
23.6.	Scope of Coverage	86
24.	RISK OF LOSS OR DAMAGE	87
24.1.	Contractor Assumption of Risk	87
24.2.	Loss or Damage Limitations	87
25.	INDEMNIFICATION	87
25.1.	By Owner	88
25.2.	By Contractor	88
25.3.	Actions by Government Authorities	88
25.4.	Notice; Defense; Settlement	88
26.	INTELLECTUAL PROPERTY AND OTHER INDEMNIFICATION RIGHTS	89
26.1.	Indemnity by Contractor	89
26.2.	Lawsuits	90
26.3.	Injunction	90
26.4.	Effect of Owner’s Actions	90
26.5.	[Intentionally Deleted]	90
26.6.	Patents and Proprietary Licenses	90
26.7.	General Lien Indemnity	90
27.	TREATMENT OF CONFIDENTIAL INFORMATION	91
27.1	Confidential Information	91
28.	ASSIGNMENT	92
28.1.	Assignment of Contract	92
28.2.	Assignment by Contractor	93
29.	INDEPENDENT CONTRACTOR	93
29.1.	General	93
29.2.	Employees	93
30.	NOTICES AND COMMUNICATIONS	93
30.1.	Requirements	93
30.2.	Effective Time	94
30.3.	Representatives	94
31.	LIMITATIONS OF LIABILITY AND REMEDIES	94
31.1.	Limitations on Damages	95
31.2.	Parent Guaranty and Letter of Credit	95
31.3.	Limitations on Contractor’s Liability	95
31.4.	Maximum Liquidated Damages Amounts	96
32.	DISPUTES	96

32.1.	Negotiations	96
32.2.	Work to Continue.....	97
32.3.	Injunctive Relief.....	97
33.	NORTH AMERICAN ELECTRICAL RELIABILITY CORPORATION CRITICAL INFRASTRUCTURE STANDARDS/COMPLIANCE REQUIREMENTS	97
33.1.	Unescorted Physical Access to Owner’s Facilities.....	98
33.2.	Authorized Cyber or Unescorted Physical Access to Owner’s CIPS Covered Assets	99
33.3.	Personnel Screening	99
33.4.	Contractor’s Designee.....	100
33.5.	Drug Testing	100
33.6.	Department of Transportation Compliance.....	100
34.	MISCELLANEOUS	100
34.1.	Severability	100
34.2.	Governing Law.....	100
34.3.	Survival of Termination	100
34.4.	No Oral Modification.....	101
34.5.	No Waiver	101
34.6.	Time of Essence	101
34.7.	Contract Interest Rate.....	101
34.8.	Headings for Convenience Only	101
34.9.	Third Party Beneficiaries	101
34.10.	Letters of Credit.....	101
34.11.	Failure to Renew Letter of Credit.....	101
34.12.	Further Assurances	102
34.13.	Record Retention	102
34.14.	Binding on Successors.....	102
34.15.	Merger of Prior Contracts.....	102
34.16.	Construction of Terms.....	102
34.17.	Counterpart Execution.....	103
34.18.	Set-Off.....	103
34.19.	Drafting Interpretations	103
34.20.	Financial Information	103

EXHIBITS

EXHIBIT A	STATEMENT OF WORK AND TECHNICAL SPECIFICATION
APPENDIX A	ABBREVIATIONS
APPENDIX B	APPROVED VENDOR LIST
APPENDIX C	CONCEPTUAL SITE ARRANGEMENTS AND REFERENCE DRAWINGS
APPENDIX D	CONCEPTUAL PROCESS FLOW DIAGRAMS AND WATER MASS BALANCE
APPENDIX E	CONCEPTUAL ONE-LINE DIAGRAMS
APPENDIX F	PACIFICORP MATERIAL SPECIFICATIONS/STANDARDS- SUBSTATION DESIGN
APPENDIX M	MECHANICAL COMPLETION, SUBSTANTIAL COMPLETION, FINAL COMPLETION, PERFORMANCE GUARANTEES AND PERFORMANCE TESTS
APPENDIX H	REPORT OF GEOTECHNICAL EXPLORATION
APPENDIX I	RAW WATER ANALYSIS
APPENDIX J	FUEL ANALYSIS

APPENDIX K	DATA TO BE SUBMITTED WITH CONTRACTOR'S BID (BIDDER'S PERFORMANCE AND EQUIPMENT SUMMARY)
APPENDIX L	FACILITY INTERCONNECTION REQUIREMENTS
APPENDIX M	MECHANICAL COMPLETION, SUBSTANTIAL COMPLETION, FINAL COMPLETION, PERFORMANCE GUARANTEES AND PERFORMANCE TESTS
APPENDIX N	PACIFICORP STANDARDS - ENGINEERING DOCUMENTS, DRAWINGS AND OTHER DELIVERABLES - REFERENCED ZIP FILES PCORP THERMAL STANDARDS VENDOR"
APPENDIX O	PACIFICORP STANDARD – HAZCOM COMPLIANCE, DOCUMENT 1037
APPENDIX P	SECURITY CONDUIT TERMINATION LOCATIONS
APPENDIX Q	SCHEDULE OF PERMITS AND GOVERNMENT APPROVALS
APPENDIX R	SUBSTATION GENERAL INFORMATION AND SCOPE OF WORK
APPENDIX S	SUBSTATION ENGINEERING DOCUMENTS, DRAWINGS AND OTHER DELIVERABLES
APPENDIX T	PROPOSED UTAH POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT APPLICATION
APPENDIX U	OWNER PREPARED DATA FOR AIR PERMIT
APPENDIX V	CONTRACTOR PROVIDED ON-SITE TRAINING PROGRAM
APPENDIX W	NERC- CIPS WORK SCOPE
EXHIBIT B	PROGRESS PAYMENT SCHEDULE
EXHIBIT C	CHANGE IN WORK FORM
EXHIBIT D	WARRANTY PROCEDURES
EXHIBIT E	FORM OF CONTRACTOR'S INVOICE
EXHIBIT F	CRITICAL PATH SCHEDULE REQUIREMENTS
EXHIBIT F-1	FIRST LEVEL CRITICAL PATH SCHEDULE REQUIREMENTS
EXHIBIT F-2	FORM OF SECOND LEVEL CRITICAL PATH SCHEDULE REQUIREMENTS
EXHIBIT G	ENGINEERING DOCUMENTS, DRAWINGS & DELIVERABLES
EXHIBIT H	RELEASE AND WAIVER OF LIENS AND CLAIMS
EXHIBIT I	KEY PERSONNEL
EXHIBIT J	MILESTONE SCHEDULE
EXHIBIT K	FORM OF MONTHLY REPORT
EXHIBIT L	OWNER'S SAFETY PROGRAM AND SPECIAL CONDITIONS
EXHIBIT M	FORM OF PARENT GUARANTY
EXHIBIT N	REQUIRED MANUALS
EXHIBIT O	SPARE PARTS AND SPECIAL TOOLS PROVIDED BY CONTRACTOR
EXHIBIT P	TOBACCO-FREE WORKPLACE POLICY
EXHIBIT Q	FINAL COST REPORT REQUIREMENTS
EXHIBIT R	CONTRACTOR SAFETY ASSURANCE PROGRAM
EXHIBIT S	CONTRACTOR QUALITY ASSURANCE AND QUALITY CONTROL PROGRAMS
EXHIBIT T	FORM OF ASSIGNMENTS CLAUSE FOR SUBCONTRACTORS
EXHIBIT U	CHANGE IN WORK RATES
EXHIBIT V	INSURANCE
EXHIBIT W	FORM OF ACCEPTABLE LETTER OF CREDIT
EXHIBIT X	NERC CIPS FORMS

EXHIBIT Y CONTRACTOR SUPPLIER DESIGNATIONS
EXHIBIT Z BASELINE MATERIALS
EXHIBIT AA COLLECTIVE BARGAINING AGREEMENTS
EXHIBIT BB [RESERVED]
EXHIBIT CC UTAH STATE TAX COMMISSION – FORM TC-62P

THIS ENGINEERING, PROCUREMENT AND CONSTRUCTION CONTRACT (this "Contract") is made and entered into as of this [___] day of [____], 2012 (the "Effective Date"), by and between PacifiCorp, an Oregon corporation ("Owner"), and [____], a [____] [corporation] ("Contractor"). Owner and Contractor are sometimes individually referred to herein as a "Party" and collectively referred to herein as the "Parties."

RECITALS

A. Owner desires to develop, construct own, and operate a combined cycle electric generating facility of a nominal [___] megawatts (net) to be located adjacent to the existing combined cycle electric generating facility in Mona, Utah, and to be known as Currant Creek 2.

B. Owner desires to engage Contractor to design, engineer, procure, construct, test, commission and start-up the Project and to train Owner personnel who will operate and maintain the Project, all on a turnkey, guaranteed fixed price, date certain to completion basis, and Contractor desires to provide such services, all in accordance with the terms and conditions set forth in this Contract.

C. Contractor has:

(1) been provided by Owner and reviewed the conceptual drawings for the Project and other documents relating to the Project which Contractor has deemed necessary in connection with this Contract,

(2) inspected the real property on which the Project shall be constructed, and

(3) reviewed such other Owner-provided investigations studies, and analyses identified herein which Contractor has determined to be necessary or prudent in connection with entering into this Contract.

D. Contractor is willing to warrant the proper construction and erection of the Project and to guarantee the timely completion and operating performance of the Project, upon the terms and for the periods specified herein.

AGREEMENT

NOW, THEREFORE, in consideration of the sums to be paid to Contractor by Owner and of the covenants and agreements set forth herein, the Parties agree as follows:

1. DEFINITIONS

For purposes of this Contract, except as otherwise expressly provided (or unless the context otherwise requires), the following terms shall have the following meanings. The meanings specified are applicable to both singular and plural.

1.1. Acceptable Letter of Credit. This term shall mean an irrevocable standby letter of credit in form and substance acceptable to Owner in its discretion, naming Owner as the party entitled to demand payment and present draw requests thereunder, which letter of credit:

- (1) is issued by a Qualified Bank;
- (2) on the terms provided in the letter of credit, permits Owner to draw up to the face amount thereof for the purpose of paying any and all amounts owing by Contractor hereunder;
- (3) if a letter of credit is issued by a foreign bank with a U.S. branch, permits Owner to draw upon a U.S. branch;
- (4) permits Owner to draw the entire amount available thereunder if such letter of credit is not renewed or replaced at least thirty (30) Business Days prior to its stated expiration date;
- (5) permits Owner to draw the entire amount available thereunder if such letter of credit is not increased, replaced or replenished as and when provided in Section 7.13;
- (6) is transferable by Owner to any party to which Owner may assign this Agreement under Section 28.1; and
- (7) shall remain in effect for at least ninety (90) days after the end of the Term.

1.2. Affiliate. With respect to any Person, another Person that is controlled by, that controls, or is under common control with, such Person; and, for this purpose, “control” with respect to any Person shall mean the ability to effectively control, directly or indirectly, the operations and business decisions of such Person whether by voting of securities or partnership interests or any other method; provided, however, that with respect to Owner, the term Affiliate shall be limited to MidAmerican Energy Holdings Company and its subsidiaries.

1.3. [Reserved.]

1.4. Applicable Laws. The term shall mean and include all of the following:

- (a) any applicable statute, law, rule, regulation, code, ordinance, judgment, decree, writ, order or the like, of any national, federal, state or local court or other

Governmental Authority, and the interpretations thereof, including, without limitation, any statute, law, rule, regulation, code, ordinance, judgment, decree, writ, order or the like, regulating, relating to or imposing liability or standards of conduct concerning:

(i) Contractor, the Site or the performance of any portion of the Work or the Work taken as a whole, and the ownership or operation of the Project;

(ii) safety and the prevention of injury to Persons and the damage to property on, about or adjacent to the Site or any other location where any other portion of the Work shall be performed; or

(iii) protection of human health or the environment or emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals or industrial, toxic or hazardous substances or wastes into the environment, including without limitation, ambient air, surface water, ground water, or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of pollutants, contaminants, chemicals, Hazardous Materials or other industrial, toxic materials or wastes, as now or may at any time hereafter be in effect; and

(b) any requirements or conditions on or with respect to the issuance, maintenance, or renewal of any Applicable Permit or any application therefor.

1.5. Applicable Permits. Each and every national, state and local license authorization, certification, filing, recording, permit or other approval with or of any Governmental Authority, including without limitation, each and every environmental, construction, operating or occupancy permit and any agreement, consent or approval from or with any other Person, that is required by any Applicable Law or that is otherwise necessary for the performance of the Work or the ownership or operation of the Project, including without limitation, the Owner Acquired Permits and the Contractor Acquired Permits.

1.6. Availability Guarantee. The term shall have the meaning and be calculated in the manner set forth in Exhibit A, Appendix M.

1.7. Availability Liquidated Damages. The term shall have the meaning set forth in Section 16.5.

1.8. Average Equivalent Availability. The term shall have the meaning and be calculated in the manner set forth in Exhibit A, Appendix M.

1.9. Baseline Materials. The term shall have the meaning set forth in Section 4.7(a).

1.10. Business Day. A Day, other than a Saturday or Sunday or federal or state holiday, on which banks are generally open for business in the State of Utah.

1.11. Cash Escrow. An escrow account established by Contractor in a commercial bank or trust company organized under the laws of the United States of America or a political subdivision thereof, whose long-term senior unsecured debt is rated at least “A” by S&P and “A2” by Moody’s, and with assets (net of reserves) of at least \$10,000,000,000. Cash deposited to the escrow account shall earn interest at the rate applicable to money market deposits at the banking institution from time to time, and the interest shall be retained in the escrow account as additional security for Contractor’s performance under this Agreement.

1.12. Certificate of Final Completion. A Certificate of Owner certifying that Final Completion has occurred.

1.13. Certificate of Mechanical Completion. A Certificate of Owner certifying that Mechanical Completion has occurred.

1.14. Certificate of Performance Tests Completion. A Certificate of Owner certifying that Performance Tests Completion has occurred.

1.15. Certificate of Substantial Completion. A Certificate from Owner certifying that Substantial Completion has occurred.

1.16. Change in Law. The enactment, adoption, promulgation, modification or repeal after the Effective Date of any Applicable Law of any Governmental Authority of the United States or the modification after the Effective Date of any Applicable Permit issued or promulgated by any Governmental Authority of the United States that establishes requirements that have a materially adverse affect on Contractor’s costs and schedule for performing the Work; provided, however, neither (a) a change in any national, federal, state or any other income tax law or any other law imposing a tax, duty, levy, impost, fee, royalty, or charge for which Contractor is responsible hereunder, nor (b) a Change in Law that affects Contractor’s costs of employment, shall be a Change in Law pursuant to this Contract.

1.17. Change in Work. A change in the Work as defined in Section 17.1.

1.18. Change in Work Form. The form documenting a Change in Work, attached hereto as Exhibit C.

1.19. CIPS Covered Assets shall mean any assets identified by Owner as “critical assets” or “critical cyber assets,” as those terms are defined in the North American Electric Reliability Corporation Glossary of Terms.

1.20. Confidential Information. Information or materials, including but not limited to critical infrastructure information or CII, now or hereafter owned by or otherwise in the possession or control of, or otherwise relating to, one Party and/or any of its Affiliates, including inventions, business or trade secrets, know-how, techniques, data,

reports, drawings, specifications, blueprints, flow sheets, designs, engineering, construction, environmental, operations, marketing, transmission line, substation and generating station outage schedules and other operating restrictions and conditions, or other information, together with all copies, summaries, analyses, or extracts thereof, based thereon or derived therefrom, disclosed by one Party (the “transferor”) to the other Party or any of its Affiliates or any of their respective directors, employees or agents (the “transferee”); provided, however, Confidential Information shall also mean information or materials related to the Work or the Project obtained, developed or created by or for a Party in connection with the Work, or delivered or disclosed to the other Party in connection with the Work, together with all copies, reproductions, summaries, analyses, or extracts thereof, based thereon or derived therefrom; and provided, further, Confidential Information of Owner shall also mean information or materials disclosed by Owner or any of its Affiliates to Contractor, or information or materials obtained by Contractor as a result of visits by Contractor, any Subcontractor, or any of their Affiliates or any of their respective directors, employees or agents to the premises of Owner or any of its Affiliates or the Site, which relate to the Project. The terms of this Contract shall also be considered Confidential Information of both Parties.

1.21. Contract. This Engineering, Procurement and Construction Contract for Currant Creek 2 Power Project, including all Exhibits hereto, as the same may be modified, amended, or supplemented from time to time in accordance with Article 17 or otherwise.

1.22. Contract Interest Rate. The rate determined pursuant to Section 34.7.

1.23. Contract Price. The fixed amount for performing the Work that is payable to Contractor as set forth in Section 6.1, plus the amount of all Sales Taxes reimbursed to Contractor pursuant to Section 7.11, as the same may be modified from time to time in accordance with Article 17.

1.24. Contractor. [_____], a [_____] [corporation].

1.25. Contractor Acquired Permits. All permits set forth in Exhibit A, Appendix U, together with any other permits normally obtained in the name of Contractor and necessary for performance of the Work.

1.26. Contractor Deliverables. Each of the design criteria, system descriptions, Required Manuals, Drawings and Specifications, design calculations, quality assurance reports and all other material documents relating to the Project to be delivered to Owner for review and comment in accordance with the requirements of Exhibit A, Exhibit G, Exhibit N, and the other provisions of this Contract.

1.27. Contractor Event of Default. The term shall have the meaning set forth in Section 20.1.

1.28. Contractor Taxes. The term shall include all (1) Sales Taxes; (2) personal property taxes on all Contractor purchased materials, supplies, equipment, tools, machinery, and other tangible personal property owned by Contractor not intended to be incorporated into or attached to the Project hereunder; (3) income taxes; and (4) all payroll, unemployment, occupational, or employment compensation tax, social security tax, or similar tax; each as effective or enacted as of the Effective Date, and each as imposed on Contractor or its Subcontractors, or on the Work; but shall not include any Owner Taxes.

1.29. Contractor's Invoice. An invoice from Contractor to Owner in accordance with Section 7.1 and in the form of Exhibit E hereto.

1.30. [Reserved]

1.31. [Reserved]

1.32. [Reserved]

1.33. [Reserved]

1.34. Critical Infrastructure Information or CII. shall mean information concerning CIPS Covered Assets that: (i) relates to the production, generation or transmission of energy; (ii) could be useful to a person planning an attack on critical infrastructure; and (iii) provides strategic information beyond the geographic location of the critical asset, and which is identified as CII by Owner.

1.35. Critical Path Item. Each item identified as a critical path item on the Critical Path Schedule prepared by Contractor.

1.36. Critical Path Schedule. A critical path schedule in the form of Exhibit F-2 prepared by Contractor and meeting the requirements set forth in Exhibit F describing the required time of completion of Critical Path Items for timely completion of the Work by Contractor.

1.37. Day or day. A calendar day, unless otherwise specified.

1.38. Defect or Defective. Unless otherwise defined elsewhere in the Contract as to a specific aspect of the Work, any designs, engineering, Equipment, installation or other Work which, in Owner's reasonable judgment:

(a) does not conform to Exhibit A, Exhibit G, or the Drawings and Specifications that have been reviewed by Owner;

(b) is of improper or inferior workmanship or quality; or

(c) are inconsistent with Industry Standards, and either:

- (i) materially and adversely affect the mechanical, electrical or structural integrity of the Project; or
- (ii) materially and adversely affect the continuous, efficient, effective or safe operation of the Project, provided that such operation is in accordance with the operating and maintenance manuals as called for in Exhibit N and Exhibit O, and with Prudent Utility Practices.

1.39. Delay Liquidated Damages. The term shall have the meaning set forth in Section 16.2.

1.40. Delay Notice. A Notice of a Force Majeure event, and the estimated delays associated with such event, as set forth in Section 9.2 or a Notice given pursuant to Section 4.30.

1.41. Deliverables Schedule. The schedule identifying the documents to be delivered by Contractor, and Owner's period for review thereof, prepared by Contractor and agreed to by Owner in accordance with Section 12.4 and the requirements of Exhibit A, Exhibit F, Exhibit G, Exhibit N, and the other applicable provisions of this Contract.

1.42. Dollars or \$. All amounts in this Contract are expressed in, and all payments required hereunder shall be paid in, the lawful currency of the United States of America.

1.43. Drawings and Specifications. Drawings, specifications and documents that are described in Exhibit A, Exhibit G, or any other applicable provisions of this Contract that have been prepared by Contractor or any Subcontractor with respect to the Work and submitted to Owner under this Contract.

1.44. Effective Date. The date first noted above upon which this Contract becomes effective.

1.45. Equipment. All materials, apparatus, machinery, equipment, parts, components, instruments, appliances, Spare Parts and appurtenances thereto that are described in or required by Exhibit A or the Drawings and Specifications.

1.46. Equivalent Base Hours. The term shall have the meaning and be determined in the manner set forth in Exhibit A, Appendix M.

1.47. Equivalent Starts. The term shall have the meaning and be determined in the manner set forth in Exhibit A, Appendix M.

1.48. Exhibits. Each exhibit listed at the end of the table of contents hereof and attached hereto and incorporated herein in its entirety by this reference.

1.49. Expenditure Schedule. The term shall have the meaning set forth in Section 7.2.

1.50. Final Completion. Satisfaction by Contractor or waiver by Owner of all of the conditions for Final Completion of the Project as set forth in Section 15.6 and Section 15.7.

1.51. Final Completion Date. The date on which Final Completion occurs.

1.52. Final Contractor's Invoice. The final Contractor's Invoice submitted in accordance with Section 7.6.

1.53. Final Payment. The final payment made by Owner to Contractor in accordance with Section 7.6.

1.54. Final Performance Test Report. The term shall have the meaning set forth in Section 14.7.

1.55. Final Release and Waiver of Liens and Claims. A sworn statement and waiver of liens prepared by Contractor and each Major Subcontractor, as applicable, which provides that such Person unconditionally waives and releases all mechanic's liens, stop notices and bond rights with respect to all Work for which Contractor requested Final Payment in the form set forth in Exhibit H.

1.56. Force Majeure. An event not reasonably anticipated as of the Effective Date of this Agreement, which is not within the reasonable control of the Party affected thereby, could not have been avoided by the exercise of due diligence, is not the result of the failure to act or the negligence or willful misconduct of such Party and which, by the exercise of due diligence, the affected Party is unable to overcome or obtain or cause to be obtained a commercially reasonable substitute therefor. To the extent that such event satisfies the test set forth in the preceding sentence, Force Majeure includes: any war, declared or not, hostilities, belligerence, blockade, revolution, insurrection, riot, terrorist act, public disorder, strikes or general labor disturbances of a national or regional nature and not specific to Contractor's personnel or Subcontractor's personnel at the Site, expropriation, requisition, confiscation or nationalization, acts of God, hurricanes, tornadoes, earthquakes, flood, explosion, civil disturbance, sabotage, acts or threats of terrorism, war, action, inaction or restraint by court order or public or Governmental Authority; provided, however, that none of the following constitute Force Majeure: (a) strikes or labor disturbances by Contractor or Subcontractor personnel occurring at the Site or Contractor's or Subcontractor's facilities except to the extent such strikes or labor disturbances at the Site or Contractor's or any Subcontractor's facilities are directly related to strikes or labor disturbances that are (A) on a regional or national level and are (B) simultaneously disrupting other business operations in the applicable regional or national area, but only to the extent there are other like business operations in the applicable regional or national area; (b) shortages (real or perceived) of labor unless

such shortage is caused by a direct and local event of Force Majeure that prevents labor from accessing the Work; (c) delay or failure by Contractor to obtain the requirement for or properly apply for any Governmental Approval which is customarily obtained by Contractor in connection with the Work as contemplated by this Contract other than the delay or failure to obtain an Applicable Permit occasioned by (x) revocation, stay or similar action by a Governmental Authority of an Applicable Permit after issuance thereof by a Governmental Authority, (y) the failure of a Governmental Authority to comply with rules, procedures or Applicable Law applicable to such Governmental Authority or (z) an event of Force Majeure; (d) economic hardship including lack of money or credit and changes in exchanges rates; (e) utility interruptions, unless caused by an independent event of Force Majeure; (f) transportation or shipping accidents that are not of themselves caused by an event of Force Majeure; or (g) unavailability of preferred shipping methods, unless caused by an independent event of Force Majeure.

1.57. GNCLD, GINCLD, GNHRLD and GINHRLD. Each term shall have the meaning set forth in Section 16.3.

1.58. Governmental Authorities. Applicable United States and other national, federal, state and local governments and all agencies, authorities, departments, instrumentalities, courts, corporations, or other subdivisions of each having or claiming a regulatory interest in or jurisdiction over the Site, the Project, the Work or the Parties to this Contract or the Parent Guarantor.

1.59. Guaranteed Emissions. The term shall mean each of the Guaranteed Air Emissions and the Guaranteed Sound Emissions described in Exhibit A, Appendix M.

1.60. Guaranteed Incremental Net Capacity. The term shall have the value set forth in Exhibit A, Appendix M, Section 4.1, Table 2.

1.61. Guaranteed Incremental Net Heat Rate. The term shall have the value set forth in Exhibit A, Appendix M, Section 4.1, Table 2.

1.62. Guaranteed Net Capacity. The term shall have the value set forth in Exhibit A, Appendix M, Section 4.1, Table 2.

1.63. Guaranteed Net Heat Rate. The term shall have the value set forth in Exhibit A, Appendix M, Section 4.1, Table 2.

1.64. Hazardous Materials. Any chemical, material or substance in any form, whether solid, liquid, gaseous, semisolid, or any combination thereof, whether waste material, raw material, chemical, finished product, byproduct, or any other material or article, that is defined, listed or regulated or as to which liability could be imposed, under any Applicable Laws as a “hazardous” or “toxic” substance, waste or material, or as a “pollutant” or “contaminant” (or words of similar meaning or import), or is otherwise listed or regulated, or as to which liability could be imposed, under Applicable Laws including without limitation, petroleum products, petroleum derived substances,

radioactive materials, asbestos, asbestos containing materials, polychlorinated biphenyls, urea formaldehyde foam insulation, and lead-containing paints or coatings.

1.65. Industry Standards. Those standards of design, engineering, construction, workmanship, Equipment, and components specified in Exhibit A; provided, however, if the relevant standard is not so specified or is ambiguous therein, then Industry Standards shall mean those standards of care and diligence normally practiced by internationally recognized engineering and construction firms in performing services of a similar nature and in accordance with good engineering design practices, Applicable Laws and other standards and codes established and/or recognized for such work.

1.66. Information. The term shall have the meaning set forth in Section 26.6.

1.67. Key Personnel. The natural persons named in Exhibit I.

1.68. Lien Indemnities. The term shall have the meaning set forth in Section 26.7.

1.69. Liquidated Damages. The term means collectively, Availability Liquidated Damages, Delay Liquidated Damages, Performance Liquidated Damages, and Start-up Liquidated Damages.

1.70. Loss(es). Any and all liabilities (including but not limited to liabilities arising out of the application of the doctrine of strict liability), obligations, losses, damages, penalties, claims, actions, suits, judgments, costs, expenses and disbursements (including legal fees and expenses and costs of investigation) sustained by either Party and arising in connection with this Contract, including without limitation the Work performed hereunder.

1.71. Major Subcontractor. The Contractor's supplier designations attached as Exhibit Y, describing any Subcontractor where the aggregate value of the applicable subcontracts and purchase orders between it and Contractor (or other Subcontractor as applicable) with respect to the Project exceeds (or is reasonably expected by Contractor to exceed) Five Hundred Thousand Dollars (\$500,000).

1.72. Make Good Guarantees. The term shall mean those guarantees for which Contractor must satisfy the requirements of Exhibit A and are not subject to buy-down, pursuant to Article 16. These guarantees shall include satisfying air emissions requirements, water discharge requirements, noise requirements, start up times and the threshold values for capacity, incremental net capacity, heat rate, net incremental heat rate and availability.

1.73. Maximum Aggregate Liquidated Damages. The term shall have the meaning set forth in Section 31.4.

1.74. Mechanical Completion. Satisfaction of all of the conditions for Mechanical Completion, as described in Section 13.1.

1.75. Mechanical Completion Date. The date on which Mechanical Completion actually occurs.

1.76. Mechanical Completion Requirements. Those Mechanical Completion Requirements identified in Exhibit A, Appendix M.

1.77. Merit Shop. The term shall mean the construction philosophy which encourages open competition and a free-market approach that awards contracts to the lowest cost responsible bidder based solely on merit, as determined by Contractor, regardless of labor affiliation.

1.78. Milestone Schedule. This term means the milestone schedule attached as Exhibit J, which such schedule describes the estimated time of completion of Milestones and for completion of the Work by Contractor, as may be modified in accordance with Article 17.

1.79. Milestone(s). Various elements of the Work to be completed by a certain deadline, as described in the Milestone Schedule.

1.80. Monthly Progress Report. A written monthly progress report prepared by Contractor in form and content generally in accordance with Exhibit K.

1.81. Moody's. Moody's Investor Services, Inc.

1.82. Notice. A written communication between the Parties required or permitted by this Contract and conforming to the requirements of Article 30.

1.83. Notice for Payment of Liquidated Damages. A Notice from Owner to Contractor specifying the kind and amount of Liquidated Damages due and payable to Owner by Contractor, based upon the verified actual performance levels of the Project, upon completion of the Performance Tests.

1.84. Notice of Final Completion. A Notice from Contractor to Owner in accordance with Section 15.7 that the Project has satisfied the requirements for Final Completion.

1.85. Notice of Mechanical Completion. A Notice from Contractor to Owner in accordance with Section 13.1(e) that the Project has satisfied the requirements for Mechanical Completion.

1.86. Notice of Substantial Completion. A Notice from Contractor to Owner in accordance with Section 15.1(k) that the Project has satisfied the requirements for Substantial Completion.

1.87. Notice to Proceed. The Notice delivered to Contractor by Owner pursuant to Section 8.1, pursuant to which Owner authorizes Contractor to commence performance of the Work, as anticipated by this Contract.

1.88. Notice to Proceed Date. The date that the Notice to Proceed is delivered to Contractor.

1.89. Operating Consumables. Operating consumables, including lubricants (including lube oil and grease), filters, lamps, light bulbs, insulating oils, chemicals, resins, catalysts and other consumable equipment and materials necessary for the operation and maintenance of the Project.

1.90. Operating Personnel. The qualified personnel hired by Owner, or by an entity providing operating or maintenance services for Owner, to operate and maintain the Project (including all operators, maintenance personnel, instrument technicians and supervisors).

1.91. Owner Acquired Permits. All permits set forth in Exhibit A, Appendix U, together with any other permits normally obtained in the name of the Owner and necessary for the Work or ownership or operation of the Project.

1.92. Owner Caused Delay. A delay in Contractor's performance of the Work which is actually and demonstrably caused by Owner's failure to perform any covenant of Owner hereunder or interference or delay by Owner or its contractors; provided, however, Owner Caused Delay shall exclude: (a) any delay caused by Force Majeure; (b) any delay caused by the Owner's exercise of rights under this Contract with respect to Contractor; and (c) any delay to the extent caused by Contractor.

1.93. Owner Event of Default. The term shall have the meaning set forth in Section 20.4.

1.94. Owner Hazardous Materials. The term shall mean, in general, any Hazardous Materials: (a) existing on or under the Site on or before the Effective Date; (b) that migrate onto or under the Site through no fault of Contractor; (c) that are brought onto the Site or spilled or otherwise introduced into or onto the Site, or are generated or produced at the Site or any portion of the Site by Owner or any third party (except Hazardous Materials brought onto the Site by, or created from a combination of non-hazardous and/or Hazardous Materials brought onto the Site by, Contractor or Subcontractors at any tier) during the performance of the Work by Contractor; or (d) that are brought onto the Site or spilled or otherwise introduced into or onto the Site, or are generated or produced at the Site or any portion of the Site after care, custody and control thereof passes from Contractor to Owner and that are not brought onto the Site by Contractor or Subcontractors at any tier.

1.95. Owner's Criteria shall mean applicable requirements used as the baseline for determining whether an individual is a restricted person, as set forth on Exhibit X, Owner's Criteria.

1.96. Owner's Facilities shall mean any facilities owned, operated or otherwise controlled by Owner which require Owner authorization to obtain access.

1.97. Owner's Project Representative. The Person designated by Owner pursuant to Section 3.1.

1.98. Owner's Safety Program. The regulations and other requirements set forth in Exhibit L and as may be modified from time to time by Owner upon Notice to Contractor.

1.99. Owner Taxes. The term shall include (1) real property taxes on the Site or the Project; (2) personal property taxes on all materials, equipment and machinery either expected to be or actually permanently incorporated into or attached to the Project; and (3) income taxes imposed on Owner; but shall not include any Contractor Taxes

1.100. Parent Guarantor. The term shall mean [_____], a [_____] [corporation].

1.101. Parent Guaranty. The guarantee of the Parent Guarantor referred to in Section 31.2, in substantially the form of Exhibit M.

1.102. Partial Release and Waiver of Liens and Claims. A sworn statement and waiver of liens prepared by Contractor and each Major Subcontractor, as applicable, which provides that such Person waives and releases all mechanic's liens, stop notices and bond rights with respect to that portion of Work for which Contractor requested payment in the current Contractor's Invoice upon payment of the amount of such Contractor's Invoice in the form set forth in Exhibit H.

1.103. Performance Guarantees. Those Performance Guarantees as identified in Exhibit A, Appendix M.

1.104. Performance Liquidated Damages. The term shall have the meaning set forth in Section 16.3.

1.105. Performance LOC. The term shall have the meaning set forth in Section 31.2.

1.106. Performance Tests. Those Performance Tests as identified in Exhibit A, performed to demonstrate and verify compliance with the Performance Guarantees.

1.107. Performance Tests Completion. The satisfaction of the Performance Tests in accordance with Article 14.

1.108. Performance Tests Completion Date. The date on which Performance Tests Completion actually occurs.

1.109. Performance Tests Procedures. The written test and commissioning procedures, standards, protective settings, and the testing and commissioning program produced by Contractor and agreed to by Owner for the Performance Tests in accordance with Article 14.

1.110. Person. Any individual, corporation, company, voluntary association, partnership, incorporated organization, trust, limited liability company, or any other entity or organization, including any Governmental Authority.

1.111. Personnel. The term shall mean the employees of Contractor or any of its agents. Subcontractors, or independent contractors who are employed to perform Work under this Contract.

1.112. Plant. The term shall mean the existing nominal [___] megawatt 2x1 combined cycle electric, natural gas-fired generating facility located in Mona, Utah and commonly known as Currant Creek 1.

1.113. Preliminary Performance Test Report. The term shall have the meaning set forth in Section 14.7.

1.114. Prime Rate. The interest rate per annum (sometimes referred to as the “base rate”) published in *The Wall Street Journal* as the “prime rate” from time to time (or if more than one rate is published, the arithmetic mean of such rates), in either case determined as of the date the obligation to pay interest arises.

1.115. Production and Construction Inputs. The inputs for construction and commissioning of the Project, as set forth in Exhibit A, including the raw water, start up fuel gas, and electrical input (as back feed capability) into the Project to be provided by Owner, but not the chemicals, gases, lubricants, construction power or other items or inputs to be provided by Contractor as set out in Section 4.15.

1.116. Progress Payment. A discrete portion of the Contract Price, payable pursuant to the Progress Payment Schedule, as a progress payment for completion of the Work, in accordance with Section 7.1.

1.117. Progress Payment Schedule. The Progress Payment Schedule attached as Exhibit B, setting forth payments to Contractor for completion of discrete portions of the Work.

1.118. Project. The nominal [___] net megawatt [2x1] combined cycle electric generating facility consisting of [two] natural gas-fired combustion turbine generators, [two] heat recovery steam generators, [one] steam turbine generator and the associated

and ancillary equipment and facilities to be located adjacent to the Plant and to be known as [Currant Creek 2], as generally described in and including all items described in Exhibit A.

1.119. Project Guaranteed Date. The Project Guaranteed Date shall consist of the Substantial Completion Guaranteed Date.

1.120. Project Manager. The Project Manager designated by Contractor and approved by Owner pursuant to Section 4.27.

1.121. Project Schedule. The Project Schedule shall consist of each of the Milestone Schedule and the Critical Path Schedule described in Section 4.29, and after Substantial Completion, the schedule for completion of the Punchlist Items, as each may be modified from time to time in accordance with Article 17 of this Contract.

1.122. Prudent Utility Practices. Those practices, methods and acts which are commonly used by utilities located in the United States for electric power generation facilities and for the lawful and safe operation and maintenance of facilities similar to the Project with dependability and economy. Prudent Utility Practices is not necessarily defined as the optimal practice, method or act to the exclusion of others, but rather refers to a range of actions reasonable under the circumstances.

1.123. PSCU. The Public Service Commission of Utah.

1.124. PSCU Approval. The term shall have the meaning set forth in Section 8.1(a).

1.125. Punchlist. A schedule of Punchlist Items developed pursuant to Section 4.32.

1.126. Punchlist Items. Each item of Work that: (a) Owner or Contractor identifies as requiring completion or containing Defects; (b) does not, in Owner's judgment, impede the ability of Owner to safely operate the Project in accordance with Prudent Utility Practices; (c) does not, in Owner's judgment, affect the operability (including without limitation the capacity, efficiency, reliability or cost effectiveness), safety or mechanical or electrical integrity of the Project; and (d) the completion or repair of which will neither interfere with, nor adversely affect, the performance or the operation or maintenance of the Project.

1.127. Qualified Bank. A financial institution whose Credit Rating is at least 'A' and 'A2' from S&P and Moody's, respectively, and having assets (net of reserves) of at least \$10,000,000,000.

1.128. Required Manuals. All operating data and manuals, Spare Parts manuals, integrated and coordinated operation and maintenance manuals and instructions, and training aids reasonably necessary to safely, effectively and efficiently commission, test,

start up, operate, maintain and shut down the Project (including those manuals identified on Exhibit N).

1.129. Retainage. The amount withheld from payments to Contractor pursuant to Section 7.5.

1.130. Retainage LOC. The term shall have the meaning set forth in Section 7.5.

1.131. S&P. Standard & Poor's Rating Group (a division of McGraw-Hill, Inc.).

1.132. Sales Taxes. The term shall include all United States federal, state, regional, and local taxes, national taxes, goods and services taxes, sales and use taxes, excise, value added, gross receipts license, privilege or any similar tax on the purchase, sale or use of all materials, supplies, equipment and machinery to be incorporated into the Project.

1.133. Schedule Recovery Plan. The term shall have the meaning set forth in Section 8.3.

1.134. Sensitive Personnel. The term shall mean all Personnel with authorized unescorted physical access to Owner's Facilities or authorized cyber access to Owner's CIPS Covered Assets.

1.135. Site. Collectively, those areas designated by Owner for the performance of the Work, including any additional areas as may, from time to time, be designated in writing by Owner for Contractor's use hereunder.

1.136. Site Conditions. The term shall have the meaning set forth in Section 5.1.5.

1.137. Spare Parts. Those Spare Parts meeting the criteria identified in Exhibit Q.

1.138. Start-up Liquidated Damages. The term shall have the meaning set forth in Section 16.4.

1.139. Subcontractor. Any Person, other than Contractor or Parent Guarantor, performing any portion of the Work (including any subcontractor of any tier and any Person who supplies Equipment in connection with the performance of the Work) in furtherance of Contractor's obligations under this Contract.

1.140. Substantial Completion. Satisfaction or waiver of all of the conditions set forth in Section 15.1.

1.141. Substantial Completion Date. The date on which Substantial Completion actually occurs.

1.142. Substantial Completion Guaranteed Date. The Substantial Completion Guaranteed Date shall be May 1, 2016, which such date may be modified in accordance with Article 17 of this Contract.

1.143. Target Notice to Proceed Date. The term shall have the meaning set forth in Section 8.1(a).

1.144. Unescorted Personnel. The term shall mean all Personnel with authorized unescorted physical access to Owner's Facilities.

1.145. U.S. Customary System. The primary system of weights and measures (other than the metric system) used in the United States today inherited from, but now different from, the British Imperial System of weights and measures.

1.146. Warranty. The collective general warranties of Contractor with respect to all Work and Materials, as set forth in Section 18.1.

1.147. Warranty LOC. The letter of credit securing the performance of Contractor's warranty obligations defined in Section 7.6.

1.148. Warranty Period. The term shall have the meaning set forth in Section 18.1.

1.149. Warranty Procedures. Those Warranty procedures detailed in Exhibit D.

1.150. Work. All obligations, duties, and responsibilities assigned to or undertaken by Contractor under this Contract with respect to the Project, including all engineering and design, procurement, manufacturing, construction and erection, installation, Equipment, training, start up (including calibration, inspection, and start up operation), and testing described in this Contract. Where this Contract describes a portion of the Work in general, but not in complete detail, the Parties acknowledge and agree that the Work includes any incidental work that pursuant to Industry Standards and Prudent Utility Practices is customarily included in projects of the type contemplated by this Contract, excluding financing of the Project or any lending or other similar arrangements.

2. AGREEMENT, EXHIBITS, CONFLICTS

2.1. Exhibits. Each of the Exhibits referenced herein and attached hereto are hereby incorporated by reference and shall form a part of this Contract.

2.2. Terms; References. Terms defined in a given number, tense or form shall have the corresponding meaning when used in this Contract with initial capitals in another number, tense, or form. Except as otherwise expressly noted, reference to specific Sections and Exhibits are references to such provisions of or attachments to this Contract. References containing terms such as "hereof," "herein," "hereto,"

“hereinafter,” and other terms of like import are not limited in applicability to the specific provision within which such references are set forth but instead refer to this Contract taken as a whole. “Includes” or “including” shall not be deemed limited by the specific enumeration of items, but shall be deemed without limitation.

2.3. Conflicts in Documentation. It is the intent of the Parties that each of the covenants, specifications and other obligations required to be performed by the Parties hereunder is an independent covenant, specification or obligation and that the Parties shall be required to perform all such covenants, specifications and obligations. The various parts of this Contract are intended to supplement and to be mutually explanatory of each other. Any Work required under one part and not another part shall be performed as if it had been set forth in all applicable parts of this Contract. Contractor has reviewed this Contract (including all of the Exhibits) and represents that it is able to perform all of its covenants, specifications and obligations. Notwithstanding the foregoing, in the event of any inconsistencies between this Contract and the other Contract documents, the following order of precedence in the interpretation hereof or resolution of such conflict hereunder shall prevail:

(a) Amendments, addenda or other modifications to this Contract (including Change in Work Forms) duly signed and issued after the signing of this Contract, with those of a later date having precedence over those of an earlier date;

(b) Articles 1 through 34 of this Contract;

(c) Exhibit A, then all the other Exhibits hereto; and

(d) Drawings and Specifications produced and delivered pursuant hereto (in respect of which, precedence shall be given to Drawings and Specifications of a larger scale over those of smaller, figured dimensions on the drawings shall control over scaled dimensions, and noted materials shall control over un-dimensioned graphic indications).

Where an irreconcilable conflict exists among Applicable Laws, this Contract, the Drawings and Specifications, the earliest item mentioned in this sentence involving a conflict shall control over any later mentioned item or items subject to such conflict. Notwithstanding the foregoing provisions of this Section 2.3, if a conflict exists within or between parts of this Contract, or between this Contract and Applicable Laws, or among Applicable Laws themselves, the more stringent or higher quality requirements shall control. All obligations imposed on Contractor and each Subcontractor under Applicable Laws or Applicable Permits and not expressly imposed or addressed in this Contract shall be in addition to and supplement the obligations imposed on Contractor under this Contract, and shall not be construed to create an “irreconcilable conflict.” Where a conflict exists among codes and standards applicable to the Contractor’s performance of the Work, the most stringent provision of such codes and standards shall govern.

2.4. Documentation Format. This Contract and all documentation to be supplied hereunder shall be in the English language. All dimensions shall be specified in U.S. Customary System dimensions.

3. RESPONSIBILITIES OF OWNER.

OWNER SHALL, AT OWNER'S COST AND EXPENSE:

3.1. Owner's Project Representative. Designate (by a Notice delivered to Contractor) an Owner's Project Representative, who shall act as the single point of contact between Owner and Contractor with respect to the prosecution of the Work. Owner's Project Representative shall not be authorized to execute or approve any Change in Work, nor to execute amendments to this Contract.

3.2. Operating Personnel. Commencing six (6) months prior to the anticipated Mechanical Completion Date (as reasonably determined by Owner based, upon the circumstances existing at the time of determination), provide or cause to be provided in accordance with Contractor's Schedule a reasonably sufficient number of Operating Personnel for training by Contractor as provided pursuant to Section 4.24 and for support of testing, start up, operation, commissioning, and maintenance of the Project as appropriate for training purposes.

3.3. Ministerial Assistance. Execute applications as Contractor may reasonably request in connection with obtaining any Contractor Acquired Permits set forth in Exhibit A, Appendix U.

3.4. Production and Construction Inputs. Subject to the requirements of Section 4.16, and upon reasonable Notice from Contractor, timely provide the Production and Construction Inputs set forth in Exhibit A as Owner's responsibility, and provide for the acceptance of electric output, in each case as reasonably necessary for the start up, commissioning, testing and operation of the Project thereof consistent with Exhibit A (except where such Production and Construction Inputs may be listed as an Owner Milestone, the Owner shall provide such Production and Construction Inputs in accordance with the Project Schedule).

3.5. Owner Acquired Permits. Obtain and pay for the Owner Acquired Permits, with the reasonable assistance of Contractor.

3.6. Access to Site. Subject to Section 4.20 and consistent with the terms of the Applicable Permits and Owner's ownership, license, and easement rights in and to the Site, make the Site reasonably available to Contractor and assure reasonable rights of ingress and egress to and from the Site for Contractor for performance of the Work.

3.7. Payments. Pay all amounts due to Contractor pursuant to the provisions of Article 7 and the other terms of this Contract.

3.8. Owner Hazardous Materials. Owner shall remain the owner of and be responsible, at its sole cost and risk, for the proper handling, storage, collection, treatment, removal, transportation and delivery for disposal of all Owner Hazardous Materials and shall comply with all applicable environmental laws with respect thereto. Owner shall be responsible for any environmental condition caused by Owner Hazardous Materials. Owner shall advise Contractor of the existence of Owner Hazardous Materials

of which Owner has knowledge, or shall supply soil data, to the extent available, which evidence that the Site is clean and free of Owner Hazardous Materials. Owner agrees to defend, indemnify and hold harmless Contractor, its Subcontractors and their Affiliates, agents, employees, servants, representatives, officers, directors, successors and assigns from and against any and all Losses Contractor may sustain or incur arising out of or indirectly or directly caused by an encounter, exposure or the presence of Owner Hazardous Materials.

3.9. Tie-in Outage. The Parties acknowledge that Contractor will request Owner to take the Plant or components thereof offline at some time or times in order to tie-in the Work and the Equipment with the Plant's existing facilities. The Parties shall use all commercially reasonable efforts to coordinate the Project Schedule with any scheduled or unscheduled Plant outages in order to reduce the amount of time that Owner is requested to have the Plant or components thereof offline for tie-in or other Work. Upon at least 30 days' prior Notice by Contractor, Owner shall grant Contractor one outage totaling no more than twenty-four (24) hours or such longer period as may be mutually agreed by the Parties, as necessary for Contractor to achieve Substantial Completion. Owner shall coordinate any outage with Contractor, but such outage shall be subject to the needs and requirements of Owner's Plant operations and Owner disclaims any obligation to provide an outage within a specific number of days of any request from Contractor.

4. RESPONSIBILITIES OF CONTRACTOR

IN ORDER FOR CONTRACTOR TO COMPLETE THE WORK, CONTRACTOR SHALL:

4.1. Performance of Work. Perform or cause to be performed, all Work for the design and engineering, procurement, construction, commissioning and start up of the Project, as more particularly described in Exhibit A. Contractor shall perform or cause to be performed all Work, shall furnish all Equipment and shall provide all additional materials, equipment, machinery, tools, labor, transportation, administration and other services and items required to perform the Work and to complete and deliver to Owner the fully integrated and operational Project. Contractor shall perform and complete all of the Work on a turnkey basis, in accordance with the terms of this Contract. References to the obligations of Contractor under this Contract as being "turnkey" and performing the Work on a "turnkey basis" mean that all design services provided, all Equipment and labor furnished, and all other Work provided shall: (a) be capable of operation at the design levels specified in Exhibit A and satisfy the Performance Guarantees; (b) be in compliance with Applicable Laws and Applicable Permits; (c) consistent with Industry Standards; and (d) as reviewed in conjunction with Owner, allow for operation of the Project and its component parts in accordance with Prudent Utility Practices over the range of operative and ambient conditions while meeting Applicable Laws, Applicable Permits, and the Performance Guarantees all as specified herein; provided, however, that where any such standard, law, or permit provides for less stringent standards than those specifically stated in this Contract, the standards specifically stated in this Contract shall govern. Contractor acknowledges that this Contract constitutes a fixed price obligation to

engineer, design, procure, construct, test and start up through Substantial Completion, the Project (including the training of Owner's operating staff) within the time and for the purpose designated herein as such price and time may be adjusted as provided herein.

4.2. Facilities. Subject to Owner's obligations under Section 3.4 and except as expressly agreed otherwise by Owner, provide all communication facilities, water, electricity and sanitary facilities to be used by Contractor and Subcontractors until Final Completion.

4.3. Organization. Maintain a qualified and competent organization at the Site with adequate capacity and numbers of construction and start up personnel, construction equipment, tools, materials and supplies, Equipment, and facilities to execute the Work in a safe, efficient, environmentally sound, and professional manner at a rate of progress in accordance with the Project Schedule.

4.4. Staff/Construction Manager. Provide a Construction Manager and appropriate staff to supervise, manage and coordinate the Work of Contractor and Subcontractors on the Site. If Owner fails to respond to a request for consent within ten (10) Business Days after Owner's receipt of Contractor's request, Owner shall be deemed to have consented to the proposed individual.

4.5. Contractor Acquired Permits. Obtain, with Owner's reasonable assistance, and pay for Contractor Acquired Permits.

4.6. Inspection. Perform all inspections, expediting, quality surveillance, and other like services required for performance of the Work, including inspecting all materials and Equipment incorporated into or that comprise the Project or that are to be used in the performance of the Work. Contractor shall be responsible for determining all utility locations at its own expense prior to undertaking any Work in the area; provided that Owner will provide Contractor with any existing information in Owner's possession regarding the same.

4.7. Baseline Materials and Contractor Duty to be Fully Informed.

(a) Baseline Materials Provided by Owner. Owner has provided Contractor certain information, documents and materials with respect to the Site or the Project, including certain surveys, geotechnical reports, environmental reports, drawings and related items, copies of which are attached as Exhibit Z (collectively, the "Baseline Materials"). Except as expressly set forth herein, Owner makes no representation or warranty of any kind with respect to the accuracy or completeness of the Baseline Materials or any other information provided to Contractor by Owner. Contractor shall be obligated to verify the accuracy of all Baseline Materials which may impact the Work. If conditions on the Site are materially different than those identified in the Baseline Materials, Contractor may request a Change Order pursuant to Article 17 if Contractor has performed its obligations under this Section 4.7 and the other conditions of Article 17 are met, but Contractor shall have no other recourse or remedy whatsoever against Owner with respect to the Baseline Materials or any other information provided to

Contractor by Owner. Any other information regarding the Site or the Project that Owner may provide Contractor from time to time is provided solely as an accommodation and cannot be relied upon by Contractor for any reason whatsoever.

(b) Contractor Duty to be Fully Informed. Contractor shall be deemed to have satisfied itself, through its own due diligence efforts and not based on the Baseline Materials or any representation of Owner or employees or agents thereof, as to the nature and location of the Work, the general, local, physical and other conditions of the Work, and all other matters which could in any way affect the Work or the cost thereof under this Contract. In addition, Contractor shall be deemed to have inspected the Site and to have satisfied itself as to the state and condition (including but not limited to ground, geological, climatic and hydrological conditions) of all circumstances affecting the Site and to have examined the Baseline Materials, and other materials available for inspection which a contractor using Industry Standards would have reviewed, the Site Conditions and to have satisfied itself as to the feasibility of executing the Work at the Site in accordance with the Project Guaranteed Date. Contractor shall be responsible for its own interpretation of such documentation and information. The failure of Contractor to adequately investigate and acquaint itself with the Baseline Materials prior to the Notice to Proceed Date and any applicable conditions and other matters shall not relieve Contractor from the responsibility for properly estimating the difficulties and costs of successfully performing the Work and completing this Contract, and shall not be grounds for adjusting either the Contract Price or the Project Schedule.

(c) Underground Obstructions. Contractor shall be responsible for ascertaining the location of and avoiding damage to all underground installations, including without limitation cable, gas, water and sewer pipes, telephone lines, and other underground installations, whether the location of the excavation, digging or trenching required for performance of the Work is fixed by Owner or Contractor. Contractor shall be responsible for all delays, costs, loss and/or expense arising, whether directly or indirectly, from any ground conditions or artificial obstructions or hazards (excluding hazardous materials encountered by Contractor during the execution of the Work that were not previously identified in writing by Owner), including any Work underground or involving excavation. Contractor shall not be entitled to any additional costs, any extension of any Project Guaranteed Date or any increase in the Contract Price as a result of any underground conditions or obstructions, except upon the conditions set forth in Section 4.9.

(d) Surveying. Contractor is responsible for performing, and shall include in its pricing, all construction layout surveying required for execution of the Work. Contractor shall be held responsible for preserving all established project control monuments unless their removal is requested by Contractor and authorized in writing by Owner. Any costs incurred by Owner to reestablish control monuments destroyed by Contractor shall be borne by Contractor.

4.8. Existing Foundations and Structures. Contractor shall be solely responsible for the consequences of incorporating into the Work, any existing foundations, structures, work, equipment or materials including any existing underground

culverts. To the extent that the same are incorporated into the Work, such pre-existing items shall be subject to the conditions as if they were supplied by Contractor hereunder. Without prejudice to the foregoing, Contractor shall notify Owner of its intention to incorporate any existing structures or materials into the Work other than those specifically identified in this Contract as soon as is practical and seek the prior written consent of Owner to the use or utilization thereof, which consent may be withheld in the sole discretion of Owner.

4.9. Differing Site Conditions. If, during the performance of the Work on the Site, Contractor encounters conditions which are materially different than those set out in the Baseline Materials which could not have been reasonably foreseen by an experienced engineer or construction contractor using Industry Standards based on the Baseline Materials and Contractor's review of the Site with respect to (a) endangered plant and animal species which are regulated or require special handling under Applicable Laws, (b) surface conditions, (c) environmental conditions, or (d) underground conditions, Contractor shall notify Owner as soon as practical pursuant to Article 17 and shall use commercially reasonable efforts to perform its obligations hereunder, including those obligations affected by such discoveries, and in compliance with Applicable Law. In the event that any relics, items or structures with archaeological, geographical or historical value or any articles (including but not limited to fossils, coins, articles of value or antiquity and any Native American relics) are discovered by Contractor or any of its Subcontractors, Contractor shall leave said items undisturbed and shall immediately notify Owner and await its direction before proceeding with any Work in the immediate vicinity of the discovered items. All such historical artifacts shall be deemed to be the absolute property of Owner and under no circumstances shall Contractor or any of its Subcontractors take possession of any item discovered.

4.10. Maintenance of Site. Maintain the Site reasonably clear of construction debris, waste material, rubbish and hazards. Special attention shall be given to keeping the Work and surrounding grounds clean and free from trash, debris, and hazards. Contractor shall thoroughly clean its Work areas each day. All trash, debris and waste materials shall be removed from the Site and disposed of by Contractor. Solid waste resulting from performing the Work (excluding Owner Hazardous Materials) must be disposed of at a permitted sanitary disposal site. Combustible material shall be promptly removed from the Site, and shall not be allowed to accumulate. Burning on the Site is prohibited. Promptly upon the completion of the construction aspects of the Work, the Work shall be cleaned and all scrap, trash, and waste materials and debris resulting from Work under this Contract shall be removed from the Site. All Contractor-owned facilities, materials and construction equipment shall be removed from the Site and the areas thus vacated shall be restored to the conditions they were in prior to the commencement of the Work. If Contractor fails to maintain the Site as provided in this Contract, Owner may do so only if Contractor has failed to clean up within ten (10) days after receipt of Notice from Owner and the cost thereof shall be charged to Contractor or offset against payments hereunder.

4.11. Adherence to Owner's Site Specific Policies. Contractor shall comply and cause each of the Subcontractors to comply with all of Owner's Site specific policies and

procedures in Exhibit L, including without limitation Owner's Tobacco-free Workplace Policy, a copy of which is attached as Exhibit P hereto.

4.12. Final Cost Report Requirements. Provide a final cost report for the Work and other information reasonably necessary for Owner to maintain segregated accounts, fiscal records and books of account pertaining to the Project in accordance with U.S. generally accepted accounting principles consistently applied, Federal Energy Regulatory Commission property units per Exhibit Q, and Applicable Laws, for its tax and fixed asset records.

4.13. Safeguards. Comply with the requirements of Exhibit A, Exhibit L, and Exhibit R and provide all necessary and reasonably appropriate safeguards at the Site for the protection of the Work, the Project, and all Persons, each Subcontractor and other property related thereto, including lights, barriers, signage, security and other measures developed pursuant to a safety assurance program acceptable to Owner, or otherwise reasonably required to prevent vandalism, theft, and hazard to the Project and personnel. Within sixty (60) days after the Notice to Proceed Date and prior to the start of the Work, Contractor shall submit to Owner its safety and security program detailing the methods it will employ to attain and maintain compliance with the requirements listed in this Contract until transfer of care, custody and control to Owner and shall describe such safety and security assurance program to be used by Contractor in the performance of the Work. Owner shall have the right to review and comment on such program as described in Contractor's submittal hereunder; provided, however, that Contractor shall remain solely responsible for performing the Work in accordance with this Contract. If Owner provides any comments with respect to such safety and security program to Contractor, then Contractor shall promptly incorporate changes into such safety and security program addressing such comments, and resubmit the same to Owner. Such incorporation of changes to address Owner's comments shall not be considered a Change in Work unless the changes are not reasonable, are not required by Industry Standards or Applicable Laws, and materially affect Contractor's cost or schedule. If Owner fails to comment within twenty (20) Business Days after receipt of such Notice, Owner shall be deemed to have accepted such safety program. Contractor shall be solely responsible for initiating, maintaining and supervising all safety measures and programs in connection with the performance of the Work. Contractor shall at all times undertake and perform the Work subject to the provisions of the Occupational Safety and Health Act of 1970 and all other Applicable Laws. Contractor shall give notices and comply with Applicable Laws bearing on the Work and on the safety of persons or property or their protection from damage, injury or loss.

4.14. Equipment. Arrange for complete handling of all Equipment, and construction equipment, including inspection, expediting, shipping, loading, receiving, unloading, storage, installation, maintenance, check out, customs clearance, receiving, storage, and claims.

4.15. Temporary Materials, Electricity and Water. Other than the Production and Construction Inputs to be provided by Owner, provide all temporary construction materials, construction equipment, supplies, construction utilities and facilities, special

tools, and commissioning supplies reasonably necessary or appropriate for, and replace any Spare Parts used during the construction, start up, testing, commissioning, and operation and maintenance of the Project until achievement of Substantial Completion. By delivery of a Notice to Owner prior to the disposition of any surplus construction materials, Spare Parts, or supplies remaining on the Site on the Substantial Completion Date (other than materials and supplies necessary to achieve Final Completion), Contractor shall give Owner the option to purchase such items at a price not exceeding Contractor's cost therefore including such costs associated with transportation, storage and handling as will keep the Contractor and/or relevant Subcontractor whole. Owner shall exercise such right, if it so elects, within thirty (30) days after receipt of such Notice. During the construction of the Project until Substantial Completion, Contractor shall provide for its own use, on-site distribution for all utilities, including: drainage, water, sewage and electrical power. Contractor shall pay for electrical power and fuel used by Contractor during the construction of the Project. Contractor shall, at its cost, make provisions in its temporary construction power load center for loads and feeds of Owner for on-site Owner representatives, provided Contractor has been supplied with reasonable advance notice and adequate information relative to such additional uses. With the exception of Production and Construction Inputs to be provided by Owner, Contractor shall provide all required supplies of demineralized water and other commodities required for the purposes of commissioning and startup activities and the Performance Tests in accordance with manufacturers' and/or Contractors' published specifications for the Project and the Equipment.

4.16. Operating Consumables. Other than the Production and Construction Inputs to be provided by Owner, provide all Operating Consumables necessary or appropriate for the construction, start up, testing, commissioning, operation and maintenance of the Project until achievement of Substantial Completion, including without limitation all chemicals, lubricants, and any other consumables. Provide an adequate inventory of Operating Consumables to support the operation of the Project at full capacity through the Substantial Completion Date. Provide to Owner, at least one hundred and eighty (180) days prior to the Substantial Completion Date, a detailed list of potential suppliers of all Operating Consumables. Provide to Owner in writing not less than ninety (90) days prior to first firing of the gas turbines, the expected daily natural gas consumption rates and quantities to be used for purposes of commissioning and start up activities and the Performance Tests.

4.17. Applicable Laws/Permits. Provide all technical support and information, and other reasonably requested information, to enable Owner to apply for and obtain Owner Acquired Permits. Comply in all respects with all Applicable Laws and Applicable Permits relating to the Project, the Site, and the performance of the Work, and perform the Work so that, upon Substantial Completion, the Project meets, and will be capable of being operated in accordance with Prudent Utility Practices, while meeting the requirements of Applicable Laws and Applicable Permits, and using methods and Equipment that satisfy Industry Standards; Contractor shall be responsible for all damages, fines, and penalties that may arise (including those that Owner pays or becomes liable to pay) because of non-compliance with such requirements, to the extent due to acts or omissions of Contractor or any Subcontractor, other than any damages, fines, and

penalties, to the extent due to the acts or omissions of Owner, Owner's employees and agents, or other third parties under the control of Owner, and shall assume responsibility for any costs and liabilities arising from any environmental damage or adverse health impacts that may be caused by Contractor's conduct in constructing or failing to construct the Project or performing or failing to perform the Work.

4.18. Replacement at Owner's Request. Within two (2) Business Days after written request by Owner, remove from the Site and performance of the Work, and cause any Subcontractor to remove from the Site and performance of the Work, and as soon as reasonably practicable, replace, any Contractor or Subcontractor personnel performing the Work (including any of the Key Personnel) in the event Owner reasonably believes that any such personnel poses a material risk of either: (a) non-achievement of a Critical Path Item or Project Guaranteed Date; or (b) material non-performance by Contractor of the Work in accordance with this Contract. In the event Owner believes that any such personnel poses a safety hazard, Owner may require that such personnel be removed immediately.

4.19. Quality Assurance Programs. Use effective quality assurance programs, reasonably acceptable to Owner and consistent with the requirements of Exhibit A and Exhibit S in performing the Work. Within sixty (60) days after the Notice to Proceed Date, Contractor shall provide a Notice to Owner describing such quality assurance programs to be used by Contractor in the performance of the Work. Owner shall have the right to review and comment on such programs as described in Contractor's Notice hereunder; provided, however, that Contractor shall remain solely responsible for performing the Work in accordance with this Contract. If Owner provides any comments with respect to such quality assurance programs to Contractor, then Contractor shall promptly incorporate changes into such quality assurance programs or otherwise address such comments, and resubmit the same to Owner. Such incorporation of changes to address Owner's comments shall not be considered a Change in Work unless the changes are not reasonable, are not required by Industry Standards or Applicable Laws, and materially affect Contractor's cost or schedule. If Owner fails to comment within twenty (20) Business Days after receipt of such Notice, Owner shall be deemed to have accepted such programs.

4.20. Access. Use only the entrance(s) to the Site as specified by Owner for ingress and egress of all personnel, construction equipment, vehicles and materials. Contractor shall perform the Work consistent and in accordance with Owner's ownership, license and easement rights in and to the Site. Contractor shall coordinate with Owner regarding initial entry onto the Site or any part thereof. Contractor shall be responsible for costs and expenses required to repair and maintain any existing roads, bridges, overpasses or other public works damaged by Contractor in the performance of the Work and to construct any temporary roads or any upgrades (including paving if required) to existing roads in connection with Contractor's performance of the Work.

4.21. Documents at Site. Maintain at the Site for Owner one (1) record copy of the Contract documents in good order and marked currently to record changes and selections made during the Work and, in addition, approved shop drawings, product data,

Project Schedule, samples and similar required submittals. These shall be available to Owner at Contractor's Site office during business hours.

4.22. Other Assistance. Until Final Completion: (a) to the extent reasonably requested by Owner, assist Owner in dealing with suppliers, customers, transporters, Governmental Authorities in any and all matters relating to the Work; and (b) cooperate to the extent reasonably necessary to enable Owner to perform its obligations under Owner's agreements with other Persons.

4.23. Data; Drawings and Manuals. Provide all operating data and preliminary and final conformed to construction record drawings and manuals and other information necessary to safely and efficiently start up, test, operate, shut down, and maintain the Project (as set forth in Exhibit A).

4.24. Training of Operating Personnel.

(a) Commencement of Training. Commencing on the date that is six (6) months prior to the anticipated Mechanical Completion Date (as determined by Owner based on the circumstances existing at the time of determination), and in accordance with Section 3.2, train the designated Operating Personnel in the requirements for the start up, shut-down, operation and maintenance of, and safety, general process understanding and emergency procedures for, the Project and all of its sub-systems.

(b) Design and Review of Training Program. Design the training program (in accordance with the provisions of Exhibit A) and submit it to Owner by no later than the date that is six (6) months prior to the anticipated Mechanical Completion Date. Owner will review, comment on, and approve or disapprove such program in writing within twenty-five (25) days after such submission by Contractor. If Owner conditions its approval on reasonable changes in the program submitted by Contractor, Contractor will effect such changes at no additional cost to Owner and resubmit the program to Owner within ten (10) days after Contractor receives Owner's conditional approval. Owner will then have ten (10) days after such resubmission to review, comment on the original comments, and approve or disapprove the program resubmitted by Contractor. Such procedure shall continue with the same ten (10) day time periods until a program is approved by Owner.

(c) Operating Personnel Responsibility. Until Substantial Completion, the Operating Personnel provided by Owner pursuant to Section 3.2 shall work under the management, supervision, and direction of Contractor, provided, however, that such Operating Personnel shall not be deemed to be employees or Subcontractors of Contractor or any Subcontractor. Operating Personnel are provided to assist Contractor for training purposes and are not to be considered a primary resource for start-up, check-out or commissioning activities.

4.25. Announcements; Publications. Coordinate with Owner with respect to, and provide advance copies to Owner for review of, the text and images of, any proposed announcement or publication that includes any non-public information concerning the

Work prior to the dissemination thereof to the public or to any Person other than a Subcontractor or advisors of Contractor, in each case, who agree to keep such information confidential. If Owner delivers Notice to Contractor rejecting any such proposed announcement or publication within two (2) Business Days after receiving such advance copies, Contractor shall not make such public announcement or publication; provided, however, that Contractor may disseminate or release such information in response to requirements of Governmental Authorities.

4.26. Cooperation and Non-Interference. Contractor agrees to use commercially reasonable efforts to perform the Work in a manner and at times so as to minimize any interference with the work of any Person being performed at the Plant and adjacent to the Site. Contractor agrees to use commercially reasonable efforts to cooperate with all other contractors or vendors and coordinate Contractor's performance of the Work with such other Persons so that Contractor does not interfere with such Persons' timely and efficient performance of their work. Contractor acknowledges and agrees that during the performance of the Work other contractors of the Owner will be performing certain work at the Plant. Contractor shall coordinate performance of the Work with Owner's other contractors performing work at the Plant in a manner to complete the Work in accordance with the Critical Path Schedule.

4.27. Project Manager and Key Personnel. Designate a Project Manager acceptable to Owner who will have responsibility for the prosecution of the Work and will act as a single point of contact for Owner in all matters on behalf of Contractor. Any replacement of the Project Manager shall be subject to the prior written consent of Owner which shall not be unreasonably withheld. If Owner fails to respond to a request for consent within ten (10) Business Days after Contractor has provided Owner with sufficient information to reasonably assess the experience and qualifications of the proposed replacement individual, Owner shall be deemed to have consented to the proposed individual. Project Manager shall provide staff to supervise, manage and coordinate the Work of Contractor and Subcontractors on the Site. The Key Personnel shall at all times hold the positions and be dedicated to the performance of the duties described in Exhibit I. Any replacement of the Key Personnel shall be subject to the prior written consent of Owner which consent will not be unreasonably withheld.

4.28. Documents Requested by Owner. Provide such data, reports, certifications, and other documents, up to a maximum of five (5) copies each and one (1) electronic copy (unless another quantity is specified in this Contract) or assistance related to the Work or this Contract as may be reasonably requested by Owner; provided, however, that the provision of this information shall not in any manner modify Contractor's rights or obligations under any other provision of this Contract.

4.29 Critical Path Schedule. Contractor has provided a Project Schedule as per Exhibit F-1 giving a preliminary indication of the critical path prior to the execution of this Contract. Within thirty (30) days after the Notice to Proceed Date, Contractor shall provide Owner with an updated critical path schedule as per the form of Exhibit F-2. Within one-hundred and twenty (120) days after the Notice to Proceed Date, Contractor shall provide Owner with another updated Critical Path Schedule as per the form of

Exhibit F-2 and that satisfies the requirements set forth in Exhibit F. Thereafter, Contractor shall advise Owner of any proposed Critical Path Schedule changes and promptly provide Owner with any revisions thereto and reasons therefor. In connection therewith, Contractor shall employ a project management system able to provide schedule monitoring and analysis which shall include a comparison of the Critical Path Schedule with the actual progress for each time period with all variances noted. Schedule analysis shall include a determination of the impact of such variance, if material, on the Critical Path Schedule and any action necessary to correct the variance. Utilizing the critical path method, Contractor shall be aware of factors that are delaying or that could delay the Work beyond Substantial Completion Guaranteed Date and shall take remedial actions reasonably within its control to eliminate or minimize schedule delays including, without limitation, over-time for the employees of Contractor and Subcontractors and the assignment of additional personnel and/or other resources. Contractor will update its Critical Path Schedule to reflect the current status of the Work. At a minimum, the updates will be performed and provided to Owner on a monthly basis as part of the Monthly Progress Report.

4.30 Monthly Progress Report. Following the Effective Date, prepare a Monthly Progress Report in the form of Exhibit K and submit it to Owner within fifteen (15) days after the end of each calendar month and as part of Contractor's Invoice submitted pursuant to Section 7.1. In addition, Contractor shall keep, and furnish to Owner at Owner's request, such information as related to Exhibit K as Owner may reasonably require to determine that the Work is progressing according to the Project Schedule and for the purpose of confirming that Progress Payments are due hereunder. Contractor also shall keep daily logs at the Site and shall provide to Owner copies of weekly reports of actual construction progress as compared with scheduled progress. Notwithstanding the foregoing obligation regarding weekly reports, Contractor shall provide Owner with a Delay Notice containing the information required by Section 9.2 at any time that Contractor becomes aware of a material delay in any aspect of the Project Schedule.

4.31 Accident Reports. Provide Owner with written accident reports for accidents that occur at the Site, prepared in accordance with the safety assurance program approved by Owner pursuant to Section 4.13. Provide Owner with copies of all written communications, to the extent not protected by the attorney-client or attorney work product privileges, with Governmental Authorities with respect to accidents that occur at the Site, and thereafter provide such written reports relating thereto as Owner may reasonably request. Contractor shall notify Owner within 24 hours of becoming aware of any accidents or occupational injuries or vehicle accidents that occur to any of Contractor's and/or Subcontractors' employees at the Site relating to the Project. Contractor shall promptly notify Owner of any damage to facilities belonging to Owner and of any property damage, bodily injury, electric contact, or fatality that may arise in connection with the performance of the Work at the Site. Contractor shall furnish Owner with one (1) copy of all accident reports or work injury reports within 24 hours of completing such report. Contractor shall assist Owner in any such accident investigation and provide information as reasonably requested by Owner relating to the incident and not protected by the attorney-client or attorney work product privileges.

4.32 Punchlist. Complete each Punchlist Item in accordance with the Project Schedule. At least every two weeks after Substantial Completion, revise and update the Punchlist, the Project Schedule and the Punchlist budget, as initially prepared in accordance with Section 15.1(g).

4.33 Measurements. Exclusively use the U.S. Customary System units of measurement in the design process and in all specifications, drawings, and other documents.

4.34 Meetings. Schedule and conduct periodic meetings with Owner in accordance with the requirements of Exhibit A, before mobilization, at Contractor's office or such other location as the Parties may agree, and after mobilization, at the Site, or such other location as the Parties may agree, for the purpose of reviewing the progress of the Work and adherence to the Project Schedule. The frequency of such meetings shall be established and modified, from time to time, by mutual agreement of Owner and Contractor; provided, however, Owner shall be entitled to require that meetings occur as frequently as weekly. If Owner requests that Contractor cause a representative of any Subcontractor performing Work on Site or Major Subcontractor not performing Work on Site to attend any such meeting, then Contractor shall cause a representative of such Subcontractor to attend such meeting.

4.35 Spare Parts. No later than twelve (12) months prior to the Substantial Completion Guaranteed Date, Contractor shall deliver to Owner a recommended Spare Parts list pursuant to Exhibit O and Owner shall promptly notify Contractor (but in no event later than six (6) months prior to the Substantial Completion Guaranteed Date) of such Spare Parts Owner requires Contractor to order, at Owner's cost pursuant to a Change in Work, with Owner taking into account the time necessary to allow for delivery to the Site prior to Substantial Completion.

4.36 Hazardous Materials. Not manufacture, store, transmit or allow the presence of, either directly or indirectly or through any Subcontractor, any Hazardous Materials (other than Owner Hazardous Materials) on the Site, except in accordance with Applicable Laws. Contractor shall not and shall not permit any of its Subcontractors to release, discharge or otherwise dispose of any Hazardous Materials on the Site; provided, however, with regard to Owner Hazardous Materials, Owner shall have provided prior Notice to Contractor of the location and nature of Owner's Hazardous Materials. Contractor shall promptly comply with all Applicable Laws regarding Hazardous Materials. If Contractor discovers, encounters or is notified of the existence of any Hazardous Materials (other than Owner Hazardous Materials) at the Site that were released, discharged or otherwise disposed at the Site by Contractor or any of its Subcontractors, then Contractor shall: (a) promptly notify Owner thereof and cordon off the area containing such Hazardous Materials unless instructed otherwise by Owner; (b) provide Owner with such written reports relating thereto as Owner may reasonably request; and (c) at Owner's option, either: (i) properly remove, collect and dispose of such Hazardous Materials from the Site and remediate the Site at Contractor's sole cost and expense; or (ii) employ a Person (or use Owner's own staff) to remove, collect and dispose of such Hazardous Materials from the Site and remediate the Site at Contractor's

sole cost and expense; provided, however, if such Hazardous Material is Owner Hazardous Material, only (a) shall apply. Contractor shall not be entitled to any extension of time or additional compensation hereunder for any delays or costs incurred by Contractor as a result of the existence of such Hazardous Materials (other than Owner Hazardous Materials) for which Contractor is responsible under this Section 4.36. However, should Contractor encounter Owner Hazardous Materials which are Owner's responsibility under Section 3.8 of this Contract, then Contractor will be entitled to request a Change in Work pursuant to Article 17, including if Work is interrupted due to Owner Hazardous Materials. Contractor agrees to defend, indemnify and hold harmless Owner, its Affiliates and their agents, employees, servants, representatives, officers, directors, successors and assigns from and against any and all Losses sustained by Contractor and arising out of Hazardous Materials (other than Owner Hazardous Materials) released, discharged or otherwise disposed at the Site by Contractor or any of its Subcontractors, including the use of such Hazardous Materials by Contractor or any Subcontractor, whether lawful or unlawful, or contamination of the Site by Contractor or a Subcontractor during performance of the Work. Such use of and/or contamination by Hazardous Materials (other than Owner Hazardous Materials) include, without limitation: (a) the storage, transportation, processing or disposal of such Hazardous Materials; and (b) any environmental condition caused by Hazardous Materials (other than Owner Hazardous Materials) that is actionable under Applicable Laws.

4.37 Design of Project. Design the Project so that it is complete in every detail and capable of operation, at the design levels specified in Exhibit A while in compliance with Industry Standards, Applicable Laws, Applicable Permits and the Performance Guarantees. Contractor shall further design the Project so that it will allow operation of the Project and its component parts over the full range of operating, ambient and site conditions while meeting applicable noise and emissions requirements, in each case, as specified in this Contract. All engineering work of Contractor (or any Subcontractor) requiring certification shall be certified and all Drawings and Specifications requiring sealing shall be sealed in each case by a professional engineer licensed and properly qualified to perform such engineering services in Utah and in all appropriate jurisdictions. Upon Owner's request, Contractor shall provide Owner with the resumes and other information regarding such persons. For all engineering disciplines required to stamp engineering drawings or documents for the performance of the Work, Contractor shall use professional engineers that maintain all applicable certifications at all times during performance of the Work, including licensing requirements of the State of Utah in relation to all engineering Work requiring the use of professional engineers.

4.38 Audit. Keep such full and detailed documentation as may be necessary for substantiation of all charges incurred under this Contract. The method for maintaining documentation shall be reasonably satisfactory to Owner. Owner, or its designee, shall be afforded access to, and allowed to make copies of, all Contractor's calculations, records, books, correspondence, instructions, drawings, receipts, vouchers, invoices, agreements, memoranda and similar data that relate to the performance of this Contract; provided, however, Owner's right if any to audit, copy and inspect the foregoing documents will only be to the extent reasonably necessary to verify the application of unit rates to Changes In Work performed by Contractor on a "cost plus" or "time and

materials” basis. Such audit rights shall not apply to the composition of any mark-ups, unit rates, fixed percentages or multipliers. This documentation will be available at Contractor’s regular place of business during normal working hours and in accordance with generally accepted accounting principles. Contractor shall preserve all such documentation for a period of three (3) years after the Final Payment, or longer where required by law. These requirements shall also apply to all Subcontractors and to all affiliated companies of Contractor that perform Work on the Project. These provisions do not apply to the guaranteed fixed price portion of this Contract; however, they do apply to any “cost plus” or “time and materials” change orders to this Contract.

4.39 Operation of Existing Facility. Contractor shall perform the Work in such a manner as to minimize disruption to the operations of the Plant and Contractor specifically acknowledges and agrees that, except as specifically provided in Section 3.9 and Section 14.5, at no time shall Owner be required to limit or cease operations of the Plant in order for Contractor to perform the Work.

5. COVENANTS, WARRANTIES AND REPRESENTATIONS

5.1. Of Contractor. Contractor covenants, represents, and warrants to Owner as follows:

5.1.1. Organization, Standing and Qualification. Contractor is a corporation, duly organized, validly existing, and in good standing under the laws of Delaware, and has as of the Effective Date, full power and authority to engage in the business it presently conducts and contemplates conducting in accordance with all Applicable Laws, and is or will be duly licensed or qualified and in good standing under the laws of Utah and in each other jurisdiction wherein the nature of the business transacted by it makes such licensing or qualification necessary and where the failure to be licensed or qualified would have a material adverse effect on its ability to perform its obligations hereunder. If Contractor is a corporation organized under the laws of any state other than the State of Utah, it shall furnish Owner with a certified copy of its permit to transact business in Utah prior to commencing Work under this Contract.

5.1.2. Professional Skills. Contractor, its Affiliates and its Subcontractors collectively have (or with respect to Subcontractors to be retained after the Effective Date, will have) all the required authority, ability, skills, experience and capacity necessary to perform and shall diligently perform the Work in a timely and professional manner, utilizing sound engineering principles, project management procedures, construction procedures and supervisory procedures, all in accordance with Industry Standards, Applicable Laws and Applicable Permits. Contractor has the experience and skills necessary to determine, and Contractor has reasonably determined, that Contractor can perform the Work for the Contract Price.

5.1.3. Enforceable Contract. This Contract has been duly authorized, negotiated, executed and agreed to by Contractor and constitutes the legal, valid and binding obligation of Contractor, enforceable against Contractor in accordance with its terms.

5.1.4. Due Authorization. The execution, delivery, and performance by Contractor of this Contract will not violate or conflict with: (a) any Applicable Laws; (b) any covenant, agreement, or understanding to which it is a party or by which it or any of its properties or assets is bound or affected; or (c) its organizational documents; and will not subject the Project or any component part thereof or the Site or any portion thereof to any lien other than as contemplated or permitted by this Contract and by Applicable Law.

5.1.5. Contractor's Investigation of the Site Conditions. Contractor has reviewed the Baseline Materials provided by Owner, and has inspected the surface of the Site and each other location where any portion of the Work shall be performed and surrounding locations to the full extent Contractor deems necessary for Contractor's purposes and is familiar with and has satisfied itself with respect to the information in the documents set forth in Exhibit A, the nature and location of the Work and the general and local conditions in and around the Site with respect to the environment, transportation, access, waste disposal, handling and storage of materials, availability and quality of electric power, availability and quality of water, availability and quality of roads, climatic conditions and seasons, physical surface conditions at the Site and the surrounding area as a whole, topography and ground surface conditions, sound attenuation conditions, seismic conditions, surface geology and conditions, nature and quantity of surface materials to be encountered, and location of utilities, equipment and facilities needed before and during performance of all Contractor's obligations under this Contract (the foregoing collectively the "Site Conditions"). Contractor acknowledges that the Site and surrounding area is subject to cold temperatures and cold weather during winter months which may interfere with Contractor's ability to perform the Work. Unless otherwise provided hereunder, Contractor specifically acknowledges and accepts the Site Conditions and agrees that no Project Guaranteed Date shall be extended, the Contract Price shall not be modified, and Contractor shall not be entitled to, request or be granted any Change in Work, as a result of any Site Conditions.

5.1.6. Government Approvals. No authorization, approval, exemption, or consent by any Governmental Authority (other than the Applicable Permits) is required in connection with the authorization, execution, delivery, and performance of this Contract by Contractor. The Contractor Acquired Permits either have been obtained by Contractor and are in full force and effect on the Effective Date or will be obtained by Contractor and will be in full force and effect on or prior to the date on which they are required, under Applicable Laws, to be in full force and effect, so as to permit Contractor to commence and prosecute the Work to completion in accordance with the Project Schedule.

5.1.7. No Suits, Proceedings. There are no actions, suits, proceedings, patent or license infringements, or investigations pending or, to Contractor's knowledge, threatened against it at law or in equity before any court (United States or otherwise) or before any Governmental Authority (whether or not covered by insurance) that individually or in the aggregate could result in any materially adverse effect on the business, properties, or assets or the condition, financial or otherwise, of Contractor or result in any impairment of its ability to perform its obligations under this Contract.

Contractor has no knowledge of any violation or default with respect to any order, writ, injunction, or decree of any court or any Governmental Authority that may result in any such materially adverse effect or such impairment.

5.1.8. Patents. Other than those patents, trademarks, service marks, trade names, copyrights, licenses, franchises and permits included in Owner Acquired Permits, Contractor owns or has the right to use all patents, trademarks, service marks, trade names, copyrights, licenses, franchises, and permits necessary to perform the Work without conflict with the rights of others.

5.1.9. Legal Requirements. The Project can be built in conformity with Applicable Laws and Applicable Permits in effect as of the Effective Date and will be built in conformity with Applicable Laws and Applicable Permits.

5.1.10. Business Practices. Contractor and its representatives have not made any payment or given anything of value, and Contractor will not, and Contractor will direct its employees, agents, and Subcontractors directly contracting with Contractor, and their employees or agents to not, make any payment or give anything of value, in either case to any government official (including any officer or employee of any Governmental Authority) to influence his, her, or its decision or to gain any other advantage for Owner or Contractor in connection with the Work to be performed hereunder. None of Contractor, each Subcontractor, nor any of their employees or agents shall take any action that in any way violates the United States Foreign Corrupt Practices Act or any similar Applicable Law. Contractor shall provide Notice to Owner of any known violation of this covenant and shall indemnify and hold Owner harmless for all fines and penalties imposed by any Governmental Authority to the extent caused by such violation.

5.1.11. Turnkey Project. Contractor acknowledges that this Contract constitutes a fixed price obligation to engineer, design, procure, construct, test and start up through Final Completion a turnkey project as defined in Section 4.1 of this Contract.

5.1.12. Owner-Provided Information. Owner or its agents may provide or may have provided Contractor with copies of certain studies, reports or other information (including oral statements), and Contractor acknowledges that all such documents or information have been or will be provided as background information and as an accommodation to Contractor. Except to the extent that Contractor may rely on the documents identified in Exhibit Z as provided herein, Contractor further acknowledges that neither Owner nor any of its agents makes any representations or warranties with respect to the accuracy of any other documents or the information (including oral statements) or opinions therein contained or expressed. Contractor further represents and warrants that it is not relying on Owner or its agents for any information, data, inferences, conclusions, or other information with respect to Site Conditions or sub-surface conditions of the Site and the surrounding areas, except for such documents identified in Exhibit Z on which Contractor has the right to rely for accuracy and completeness.

5.1.13. [Reserved.]

5.1.14. Financial Condition. Contractor is financially solvent, able to pay its debts as they mature and possessed of sufficient working capital to complete its obligations under this Contract. Contractor is able to furnish the Equipment, labor, and design services needed for the Project, is experienced in and competent to perform the Work, contemplated by this Contract, and is qualified to do the Work.

5.1.15. Licenses. All Persons who will perform any portion of the Work have and will have all business and professional certifications and licenses required by Applicable Law to perform the Work under this Contract.

5.1.16. Building Codes. The Project can and shall be built in conformity with all applicable Utah and local building codes, construction related regulations and construction related directives of all Governmental Authorities applicable to the Work.

5.1.18. No Prototype Equipment or Designs. The Project shall be built in a manner so that none of the Equipment or the Work will be determined, for insurance purposes, to be “prototype equipment”. Contractor shall be responsible to promptly give Notice to Owner if any modifications are made to any of the Equipment specifications.

5.2. Of Owner. Owner covenants, represents, and warrants to Contractor as follows:

5.2.1. Organization, Standing and Qualification. Owner is a legal entity duly organized, validly existing, and in good standing under the laws of the State of Oregon, has full power and authority to engage in the business Owner presently conducts and contemplates conducting, and is and will be duly licensed or qualified and in good standing in Utah and in each jurisdiction where the failure to be licensed or qualified would have a material adverse effect on its ability to perform its obligations hereunder.

5.2.2. Enforceable Contract. This Contract has been duly authorized, negotiated, executed and agreed to by Owner and constitutes the legal, valid, and binding obligation of such entity, enforceable against Owner in accordance with its terms.

5.2.3. Due Authorization. The execution, delivery, and performance by Owner of this Contract will not conflict with: (a) any Applicable Laws; (b) any covenant, agreement, or understanding to which it is a party or by which it or any of its properties or assets is bound or affected; or (c) its organizational or governance documents.

5.2.4. Governmental Approvals. No authorization, approval, exemption, or consent by any Governmental Authority (other than the Applicable Permits and the PSCU Approval) is required in connection with the execution, delivery, and performance of this Contract by Owner.

5.2.5. No Suits, Proceedings. There are no material actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court (United States or otherwise) or before any Governmental Authority (whether or not covered by insurance) that individually or in the aggregate could result in any materially adverse effect on the business, properties, or assets or the

condition, financial or otherwise, of Owner or in any impairment of its ability to perform its obligations under this Contract. Owner has no knowledge of any violation or default with respect to any order, writ, injunction, or any decree of any court or any Governmental Authority that may result in any such materially adverse effect or such impairment.

5.2.6. Business Practices. Owner will not, and Owner will direct its employees, agents, and subcontractors, and their employees and agents to not, make any payment or give anything of value to any government official (including any officer or employee of any Government Authority) to influence his, her, or its decision or to gain any other advantage for Owner or Contractor in connection with the Work to be performed hereunder. Neither Owner nor any of its employees or agents shall take any action that violates the United States Foreign Corrupt Practices Act or any similar Applicable Law. Owner shall immediately notify Contractor of any violation of this covenant and shall indemnify and hold Contractor harmless for all losses, expenses, damages, and liabilities arising out of such violation.

5.2.7. Financial Condition. Owner is financially solvent, able to pay its debts as they mature and possessed of sufficient working capital to complete its obligations as they become due under the terms of this Contract.

5.2.8. Owner Acquired Permits. Owner Acquired Permits either have been obtained by Owner and are in full force and effect on the date hereof or will be obtained by Owner and will be in full force and effect, so as to permit Contractor to commence and prosecute the Work to completion in accordance with the Project Schedule.

6. COST OF WORK

6.1. Contract Price. As full compensation for the Work, Owner shall pay to Contractor (i) the fixed amount of U.S. \$[____], plus (ii) the amount of all Sales Taxes to be reimbursed to Contractor pursuant to Section 7.11, which the Parties agree is estimated to be U.S. \$[____] for the Work in accordance with Exhibit B. The Contract Price shall be modified only by a Change in Work approved in accordance with Article 17. The Contract Price shall be paid in accordance with Article 7.

6.2. All Items of Work Included. The Contract Price includes payment for: (a) all costs of Equipment, temporary equipment, materials, labor, Contractor Acquired Permits, governmental approvals, transportation, engineering, design and other services relating to Contractor's performance of its obligations under this Contract and the Work (including any intellectual property rights licensed under this Contract, expressly or by operation of this Contract) provided by Contractor or any Subcontractor; (b) all United States federal, state, regional, and local excise taxes and other use taxes effective or enacted as of the Effective Date or thereafter, each as imposed on Contractor or a Subcontractor or the Work; (c) all other taxes, duties, levies, imposts, fees, or charges of any kind (whether in the United States or elsewhere and including, without limitation, any of the foregoing related to the importation of any items into the United States) arising

out of Contractor's or any Subcontractor's performance of the Work, including those charges of any kind upon Contractor's equipment, material, and consumables not incorporated in the Project, that may occur during the term of this Contract; and (d) any duties, levies, imposts, fees, charges, and royalties (and including, without limitation, any of the foregoing related to the importation of any items into the United States) imposed on Contractor or Subcontractor with respect to any Equipment, materials, labor, or services provided under this Contract. The taxes covered hereby include occupational, excise, unemployment, ownership, value-added, gross receipts, and income taxes and any and all other taxes and duties on any item or service that is part of the Work, whether such tax is normally included in the price of such item or service or is normally stated separately, all of which shall be for the account of Contractor. The Contract Price shall not be increased with respect to any of the foregoing or with respect to any withholdings in respect of any of the foregoing items that Owner may be required to make. Notwithstanding the foregoing, Contractor shall not be liable for, and the Contract Price shall not include any Owner Taxes.

7. TERMS OF PAYMENT

Payments to Contractor shall be made as follows:

7.1. Contractor's Invoices. Within thirty (30) days after the Notice to Proceed Date and receipt of an approved invoice, Owner shall pay Contractor the amount shown on the Progress Payment Schedule as the first Progress Payment. Thereafter, on or prior to the fifteenth (15th) day of each month, Contractor shall submit to Owner a Contractor's Invoice in the form of Exhibit E, in accordance with the Progress Payment Schedule, for the Work performed thereunder in the then immediately preceding month. Contractor specifically agrees that it shall not request in any Contractor's Invoice the payment of any sum attributable to Work which has been rejected by Owner or Contractor or which otherwise constitutes or relates to a Subcontractor's application for payment, billings or invoices which Contractor disputes or for any other reason does not intend to pay, or which contains a Defect. Subject to the provisions of this Article 7, Owner shall pay Contractor each Progress Payment described on the Progress Payment Schedule upon Contractor's completion of the corresponding discrete portion of Work.

7.2. Certification by Contractor. Each Contractor's Invoice:

(a) shall describe: (i) the completion of the Work as described in the Progress Payment Schedule; (ii) the related Progress Payments set forth on the Progress Payment Schedule that are then due as of the end of the immediately preceding calendar month; and (iii) any other amounts then payable by Owner to Contractor under Article 17 or any other provision hereof and, without limiting Owner's right to dispute any amounts requested for payment;

(b) shall include documentary evidence of the completion of each such discrete portion of Work described in such Contractor's Invoice sufficient for Owner to verify that such Work has been completed;

(c) shall include Contractor's and Major Subcontractors' Partial Release and Waiver of Liens and Claims in compliance with Exhibit H;

(d) shall include the Critical Path Schedule and Monthly Progress Report in accordance with Section 4.29 and Section 4.30, except to the extent they have previously been provided for the applicable month; and

(e) shall include supporting documentation (not on the face of the invoice), which addresses the amounts attributable to Sales Taxes.

It being understood and agreed by Contractor that any Contractor's Invoice that is inaccurate or incomplete or that lacks detail, specificity or supporting documentation required by this Article 7 shall not, to the extent of such deficiency, constitute a valid request for payment. Each Progress Payment shall be due and payable only to the extent it is supported by the completion of the corresponding individual discrete portion of Work, it being acknowledged and understood that no Progress Payment shall be made for any partially or improperly completed discrete portions of Work or for Work that remains subject to Owner's review and inspection rights in accordance with Article 12. Notwithstanding the foregoing, in no event shall the cumulative amount paid for any month exceed the cumulative amounts of the Progress Payments payable for such month pursuant to the "Expenditure Schedule" set forth on the Progress Payment Schedule plus any applicable Change Orders.

7.3. Major Subcontractor Statements. Accompanying each Contractor's Invoice, Contractor shall submit a conditional Partial Release and Waiver of Liens and Claims from each Major Subcontractor whose Work is covered under such Contractor's Invoice and statement to the effect that:

(a) Contractor has paid or will pay such Major Subcontractor upon receipt of payment from Owner and in accordance with the subcontract and there are no overdue payments from Contractor to such Major Subcontractor in connection with the Work;

(b) Contractor has paid or will pay such Major Subcontractor all amounts that will be paid for all Work completed by such Major Subcontractor through the end of the preceding month (other than retainage in an amount not to exceed amounts allowed by Applicable Laws) upon receipt of payment from Owner and in accordance with the subcontract;

(c) Contractor is not aware of any overdue undisputed payments from such Major Subcontractor to another Subcontractor contracting directly with such Major Subcontractor in connection with the Work;

provided, however, that Contractor may deliver to Owner, in lieu of any such waiver of liens or certificate, a payment bond or bonds, reasonably satisfactory to Owner, in an amount greater than or equal to: (y) one-hundred twenty percent (120%) of the total amount of such Major Subcontractor's subcontract and purchase order with Contractor less (z) the amounts that such Major Subcontractor has previously been paid by Owner as certified by such Major Subcontractor.

7.4. Owner Review; Payments. Without limiting Owner's rights of review under Article 12, within thirty (30) days after receipt by Owner of a Contractor's Invoice and all accompanying documentation required by Section 7.2, including the Critical Path Schedule and Monthly Progress Report, Owner shall: (a) determine whether the Work covered thereby has been performed as described by Contractor; (b) determine whether the Work performed conforms with the requirements of this Contract; (c) determine whether Contractor's Invoice has been properly submitted; and (d) notify Contractor concerning any invoiced amount that is in dispute and the basis for such dispute. Owner will pay Contractor, within thirty (30) days after receipt by Owner of Contractor's Invoice and all documentation required by Section 7.2, including the Critical Path Schedule and Monthly Progress Report, all Progress Payments and other amounts then payable and not in dispute; provided, however, that Owner may offset against such payment any amount then due from Contractor to Owner as provided in Section 34.18. Failure by Owner to pay any amount in dispute and identified pursuant to clause (d) above until resolution of such dispute pursuant to Section 7.7 shall not alleviate, diminish, or modify in any respect Contractor's obligations to perform hereunder, including Contractor's obligation to meet the Project Guaranteed Date. Upon receipt of payment from Owner, Contractor shall pay each Subcontractor in accordance with its subcontract directly contracting with, or assigned to, Contractor the amount to which said Subcontractor is entitled under its agreement with Contractor with respect to the Work covered by such payment by Owner. Contractor shall, by an appropriate agreement with each Subcontractor directly contracting with, or assigned to, Contractor, require each Subcontractor to make payments to its Subcontractors in a similar manner and shall cause each such Subcontractor to comply with such requirement.

7.5. Retainage. Owner shall be entitled to retain and withhold payment of five percent (5%) of all payments made to Contractor (the "Retainage") other than the Final Payment. Alternatively, no Retainage will be withheld by Owner in the event Contractor provides an Acceptable Letter of Credit issued for the benefit of the Owner in an amount equal to the Retainage (had it been withheld) (the "Retainage LOC"). Subject to Article 32, Owner shall have the right from time to time to set off against the Retainage or draw upon the Retainage LOC for amounts of Liquidated Damages that are due and payable to Owner or other amounts for which Owner has requested payment from Contractor and which are otherwise owed by Contractor to Owner hereunder.

7.6. Final Payment. Upon the delivery of Owner's Certificate of Final Completion in accordance with Section 15.7, Contractor shall submit a final Contractor's Invoice (the "Final Contractor's Invoice") which shall set forth all amounts due to Contractor that remain unpaid (including amounts relating to the Punchlist Items), and upon approval thereof by Owner, Owner shall pay to Contractor the amount due under such Final Contractor's Invoice ("Final Payment"). Subject to Section 7.9 and Article 16, Final Payment shall also include release of the Retainage or the Retainage LOC, as applicable, as adjusted pursuant to Section 34.10. Owner shall have no obligation to make Final Payment until Contractor shall have delivered the following items to Owner:

- (a) with respect to each Major Subcontractor either:

(i) a certification from such Major Subcontractor to the effect that, subject to Contractor's receipt of Final Payment from Owner, such Subcontractor has been paid all amounts that are owing or may become owing to such Major Subcontractor with respect to the Project and the performance of the Work, and

(ii) the Final Release and Waiver of Liens and Claims as set forth in Exhibit H, or

(iii) a bond in form and substance acceptable to Owner to indemnify Owner against any claim for payment by such Major Subcontractor with respect to its right to be paid in connection with the Project or the performance of the Work; and

(b) with respect to Contractor:

(i) a certification to the effect that:

(1) Contractor and its Affiliates performing Work have been paid all amounts owing or that may become owing to Contractor and such Affiliates with respect to the Project and the performance of the Work except for amounts requested in the Final Contractor's Invoice or in dispute, and

(2) Contractor and its Affiliates performing Work have paid all amounts that Contractor and such Affiliates will be required to pay in connection with the performance of the Work, including all undisputed amounts to be paid to any Subcontractor with respect to the Project and the performance of the Work, except for amounts that in the aggregate shall be less than the Final Payment; and

(ii) the Final Release and Waiver of Liens and Claims.

(c) an Acceptable Letter of Credit in substantially the form of Exhibit W (the "Warranty LOC") issued for the benefit of Owner in an amount of (i) three percent (3.0%) of the Contract Price for the two year term of the Warranty Period and (ii) two percent (2%) of the Contract Price for any extension of the Warranty Period beyond the two (2) year term, subject to Section 18.2, to secure Contractor's warranty obligations under Article 18, which Warranty LOC shall be issued by a Qualified Bank, and in such form as is reasonably consistent with Exhibit W. The Warranty LOC shall be delivered and effective on or prior to the Substantial Completion Date and shall expire at the conclusion of the Warranty Period in accordance with Section 18.2.

Owner shall pay the Final Payment within forty-five (45) days after proper receipt of the Final Contractor's Invoice and the certifications and waivers of liens, or the bonds required by Sections 7.6(a) and (b) above.

7.7. Disputes. Contractor's acceptance of any Progress Payment shall not be deemed to constitute a waiver of amounts that are then in dispute. Contractor and Owner

shall use their reasonable efforts to resolve all disputed amounts as expeditiously as possible in accordance with the provisions of Article 32.

7.8. Method of Payment. All payments to be made to Contractor under this Contract shall be paid in Dollars and shall be made via electronic funds transfer in immediately available funds on the date due or, if such date is not a banking day in the United States, on the immediately succeeding Business Day to the following account (or such other account as may be designated by Contractor from time to time by Notice to Owner in accordance with Article 30):

Bank: []
Account Number: []
ABA Number: []

7.9. Holdbacks. Any provision hereof to the contrary notwithstanding, upon the occurrence and continuance of any of the following events, Owner, upon Notice to Contractor, may, but shall have no obligation to, withhold or retain such portion (including all) of any payment due to Contractor under this Contract in a proportionate amount necessary to protect Owner if:

(a) A Contractor Event of Default shall have occurred hereunder as defined in Section 20.1 and Contractor has not yet remedied such Event of Default;

(b) Any part of such payment shall be attributable to Work which shall contain one or more Defects or shall not have been performed in accordance with Exhibit A or the Drawings and Specifications;

(c) Contractor shall have improperly failed to make payments in accordance with its subcontracts to any Subcontractor for Equipment, material or labor used in the Work for which Owner has paid Contractor unless Contractor has, in good faith, disputed such payments and, if a lien is filed with respect thereto, Contractor posted a bond against such lien; and

(d) Contractor shall have failed to promptly and diligently implement the Work in accordance with the Schedule Recovery Plan.

(e) Contractor shall have failed to remove and replace or to cause any Subcontractor to remove and replace, within ten (10) days after receiving Notice pursuant to Section 4.18, any employee of Contractor or of any Subcontractor; provided, however, the amount withheld as a result of the application of this Section 7.9(e) shall not exceed ten percent (10%) of the amount otherwise payable to Contractor under this Article 7.

No payment made hereunder shall be construed to be acceptance or approval of that part of the Work to which such payment relates or to relieve Contractor of any of its obligations hereunder. Should any dispute arise with respect to Owner's exercise of its rights under this Section 7.9, such dispute shall be subject to resolution in accordance with Article 32. Notwithstanding the provisions of Section 20.4, Contractor shall not

have any rights of termination or suspension under Section 20.4 as a result of Owner's exercise or attempted exercise of its rights under this Section 7.9.

7.10. Release of Liability. Acceptance by Contractor of the Final Payment shall constitute a release by Contractor of Owner, Affiliates and every officer and agent thereof from all liens (whether statutory or otherwise and including mechanics' or suppliers' liens), claims and liability hereunder with respect to any Work performed or furnished in connection with this Contract, except claims and liability (i) for which Contractor has previously delivered a dispute Notice to Owner, (ii) for any third-party indemnification claims for which Contractor has no actual knowledge at the time of Final Payment, and (iii) for Owner obligations hereunder, which by their nature, survive the Final Payment, termination or expiration of this Contract. No payment by Owner shall be deemed a waiver by Owner of any obligation of Contractor under this Contract.

7.11. Taxes; Sales Taxes; Tax Administration and Payment.

(a) Responsibility for Taxes. Subject to Section 7.11(c), Contractor shall be responsible for all Contractor Taxes. Owner shall be responsible for all Owner Taxes.

(b) Administration and Payment of Sales Taxes. Contractor shall, in accordance with Applicable Law, timely administer and pay all Sales Taxes that are incurred in the course of performing the Work, and timely furnish to the appropriate taxing authorities all required information and reports in connection with such Sales Taxes. Contractor shall provide to Owner information to confirm that the correct amount of Sales Taxes have been paid on the Work, and such further tax information reasonably requested by Owner. Contractor shall use reasonable efforts to efficiently manage its provision of the Work, so as to minimize the incurrence of Sales Taxes. Contractor shall confer with Owner in advance of any discretionary action, election or omission permitted in connection with Sales Taxes.

(c) Reimbursement of Sales Taxes. Owner shall reimburse Contractor for any Sales Taxes incurred and paid by Contractor in the course of performing the Work, as part of the cost of all materials, supplies, equipment and machinery to be incorporated into the Project, and the Contract Price shall be deemed to have been adjusted to reflect the payment of such additional Sales Taxes without the need to execute any Change in Work pursuant to Article 17. Exhibit B and Exhibit Q shall be updated from time to time to reflect actual amounts of Sales Taxes reimbursed to Contractor pursuant to this Section 7.11.

(d) Pollution Control Equipment. Within thirty (30) days of receipt of certification as a pollution control facility by the Utah Department of Environmental Quality, and in anticipation of exemption from sales and use tax allowed by Sections 19-2-123 through 19-2-127 of the Utah Code Annotated and provided by Subsection 59-12-104(11), Owner shall provide Contractor with a copy of said certification and a Utah Sales and Use Tax Exemption Certificate for purchases of all materials and equipment purchased, leased or otherwise procured, and services utilized, for the construction of or installation into the certified Pollution Control Facility. If Contractor or Subcontractor

makes any payment for purchases deemed exempt under Subsection 59-12-104(11) prior to receipt of the certification and sales and use tax exemption certificate, Contractor and/or Subcontractors shall pay any applicable Sales Tax in accordance with Utah law. In such event, the Contractor shall be responsible to provide to Owner a statement certifying the amount of Utah sales and use tax paid by the Contractor and Subcontractors related to Pollution Control Equipment purchases. In addition, and per Exhibit CC, Contractor shall supply to Owner the following information for each vendor to whom or for whom sales or use tax was paid or accrued, respectively, by Contractor or Subcontractors for Pollution Control Equipment purchases: a) Seller (vendor) name, b) Seller complete address, c) Seller's Utah Sales and Use tax account number under which tax was paid, d) Purchase date, e) Invoice date, f) Invoice number, g) Description of items purchased, h) Taxable amount, i) Amount of Utah sales tax paid, j) Proof of payment (Copy of receipt showing payment, cancelled check or bank statement), k) County/City codes under which the tax was reported, l) Sales tax rate(s) and tax amount accrued; and m) Date(s) sales or use tax was paid to the Utah State Tax Commission.

The certification as a Pollution Control Facility and approval for exemption from sales and use tax for all materials, equipment and services identified in said certification is expected to be received by Owner prior to completion of the Project. Upon receipt of certification copy and sales and use tax exemption certificate from Owner, Contractor shall provide a copy of the certification and sales and use tax exemption certificate to each Subcontractor that will supply "pollution control equipment", as specified below, to the Contractor as part of this Contract. In the event that only a portion of the total scope of supply, for materials, equipment or services provided by Contractor or any of its Subcontractors, is attributable to "pollution control equipment" as certified by the Utah Department of Environmental Quality, Contractor and/or Subcontractor shall separately itemize those costs in supporting documentation to invoices(s) and such costs shall be exempt from payment of Utah sales and use taxes. For the purposes of this Contract, "pollution control equipment" includes: (1) low NOx combustors and low-NOx combustion controls that are part of the combustion turbines, (2) the two continuous emissions monitoring systems and the associated data acquisition system, (3) selective catalytic reduction systems including catalyst, catalyst frames, catalyst hoists, ammonia injection grids, ammonia injection piping, ammonia injection skids (including vaporizers, pumps, and controls), aqueous ammonia storage tank, and ammonia forwarding skids, and (4) oxidation catalysts and associated catalyst frames.

(e) Exempt Work. Where applicable, Owner shall furnish to Contractor, within thirty (30) days of the Notice to Proceed Date, a certificate complying with state and local governmental laws, regulations and ordinances identifying any components of the Work to be considered exempt from state sales and use tax. Contractor shall cooperate with Owner to establish appropriate procedures and to endeavor to minimize the amount of such taxes to the extent reasonable and practical.

7.12. All Payments in Dollars. All amounts in this Contract are expressed in, and all payments required hereunder shall be paid in Dollars.

7.13. [Reserved]

8. COMMENCEMENT AND PROSECUTION OF THE WORK

8.1. Notice to Proceed. Contractor acknowledges that Owner has entered into this Contract in order to participate in an advance approval process regulated by the PSCU and that this Contract may not be approved by the PSCU.

(a) As such, Owner reserves the right to terminate this Contract at any time in the event that Notice to Proceed is not delivered to Contractor by Owner, prior to and including May 1, 2013 (the “Target Notice to Proceed Date”), for any reason whatsoever, and no fee or compensation whatsoever shall be owed to Contractor by Owner.

(b) If Notice to Proceed is issued during the period from the Target Notice to Proceed Date up to and including June 1, 2013, then Contractor shall not be entitled to request a Change in Work in accordance with Article 17 adjusting the Contract Price and Schedule to account for any delay in issuance of a Notice to Proceed.

(c) If Notice to Proceed is issued during the period from June 1, 2013 up to and including June 30, 2013, then Contractor shall be entitled to request a Change in Work in accordance with Article 17 adjusting the Schedule on a day-for-day basis to account for the delay in issuance Notice to Proceed after June 1, 2013. Any time extensions granted in a Change in Work for delays in issuance of the Notice to Proceed will extend the Substantial Completion Guaranteed Date, provided that the Contractor can demonstrate the delay has a material impact on the Schedule. The Contract Price will not be adjusted in the event Notice to Proceed is issued up to and including June 30, 2013.

(d) If Notice to Proceed is issued after June 30, 2013, then Contractor shall be entitled to request a Change in Work in accordance with Article 17 adjusting the Contract Price and Schedule to account for the delay in issuance Notice to Proceed after May 31, 2013, provided that the Contractor can demonstrate the delay has a material impact on the Schedule. Any time extensions granted in a Change in Work for delays in issuance of the Notice to Proceed will extend the Substantial Completion Guaranteed Date.

(e) If Notice to Proceed is not issued by December 31, 2013, then Contractor shall be entitled to terminate this Contract, but no fee or compensation whatsoever shall be owed to Contractor by Owner under this Contract, including but not limited to any termination fee which otherwise could be argued by Contractor under Article 21.

(f) The date on which Owner provides Contractor with a Notice to Proceed shall be the Notice to Proceed Date; provided, however, that the following shall be conditions precedent to Owner’s right (but not obligation) to provide Contractor with the Notice to Proceed:

(i) PSCU Approval. Owner’s receipt of PSCU approval of this Agreement on terms and conditions acceptable to Owner (the “PSCU Approval”);

(ii) Governmental Approvals and Consents. To the extent applicable, Owner’s receipt of and satisfaction with all Governmental Approvals and

Consents required to be obtained by Owner, Contractor, and any other Person which are necessary as of the Notice to Proceed Date, in Owner's sole discretion, to commence the Work identified in the Notice to Proceed;

(iii) Project Agreements. Owner shall have received the Contractor Parent Guaranty as of the Notice to Proceed Date (together with all amendments, supplements, schedules, and exhibits thereto), each of which shall (1) have been duly authorized, executed and delivered by each party thereto, (2) be in form and substance satisfactory to Owner, and (3) be in full force and effect;

(iv) Insurance Requirements. Owner and Contractor have each obtained the insurance required to be provided by each of them in accordance with the terms of this Contract and shall have provided the other Party reasonable documentation evidencing such insurance effectuation; and

(v) Additional Matters. Owner shall have received such other certificates, documents and instruments from third parties relating to the transactions contemplated hereby as may have been reasonably requested by Owner from such third parties.

(g) If, after July 1, 2013, the conditions precedent listed in Section 8.1(f)(i)-(v) are satisfied, and Owner subsequently elects not to issue a Notice to Proceed and terminates this Contract, then in lieu of any compensation to Contractor pursuant to Section 21.1, Contractor shall be paid the sum of five hundred thousand Dollars (\$500,000.00).

(h) If, after December 31, 2013, the conditions precedent listed in Section 8.1(f)(i)-(v) have not been satisfied, Owner may terminate this Contract. In the event Owner terminates this contract under these conditions, no fee or compensation whatsoever shall be owed to Contractor by Owner.

(i) On the Notice to Proceed Date, Contractor shall commence and shall thereafter diligently pursue the Work assigning to it a priority that will permit the attainment of Substantial Completion of the Project on or before the Substantial Completion Guaranteed Date. Contractor shall proceed with the performance of the Work in accordance with the Project Schedule. Contractor expressly agrees that the period of time specified to complete all Work and the timely achievement of the Project Guaranteed Date and the Project Schedule includes allowance for all typical hindrances and delays incidental to the Work consistent with Industry Standards for similar projects given the locale and scope of this Project. No claim shall be made by Contractor for hindrances or delays for any cause during the progress of the Work, except as provided under Articles 9, 17 and 22.

8.2. Prosecution of Work. Contractor shall prosecute the Work in accordance with the Project Schedule and shall cause Substantial Completion of the Project to occur on or before the Substantial Completion Guaranteed Date (as such date may be extended pursuant to Article 17, Article 22 or any other provision hereof).

8.3. Schedule Recovery Plan. If (a) Contractor fails, to stay within twenty (20) days of the Project Schedule (as determined using the Critical Path Schedule) for achieving Substantial Completion on or before the Substantial Completion Guaranteed Date, or (b) Contractor fails to complete any of the Critical Path Items set forth in the Critical Path Schedule within twenty (20) days after the date set forth on the Critical Path Schedule for completion of such item, then Contractor shall, within ten (10) days after Contractor becomes aware of such delay, submit for approval by Owner, a written plan (the “Schedule Recovery Plan”) to complete all necessary Work to achieve Substantial Completion by the Substantial Completion Guaranteed Date. Within fifteen (15) days after receipt of the Schedule Recovery Plan, Owner shall deliver Notice of approval or disapproval of the Schedule Recovery Plan to Contractor, the approval thereof not to be unreasonably withheld. If Owner disapproves all or any portion of the Schedule Recovery Plan, Owner shall approve those portions of the Schedule Recovery Plan that are acceptable and provide modifications to those portions of the Schedule Recovery Plan that have been disapproved. Contractor shall then resubmit a revised Schedule Recovery Plan addressing such modifications as shall have been provided by Owner within five (5) additional days and, upon approval by Owner, promptly proceed with such additional Work as may be required under the Schedule Recovery Plan. Approval by Owner of a Schedule Recovery Plan shall not be deemed in any way to have relieved Contractor of its obligations under this Contract relating to the failure to achieve Substantial Completion of the Project by the Substantial Completion Guaranteed Date, be a basis for an increase in the Contract Price, or limit the rights of Owner under Article 16.

9. FORCE MAJEURE

9.1. Events of Force Majeure. No failure or omission to carry out or observe any of the terms, provisions, or conditions of this Contract shall give rise to any claim by either Party against the other, or be deemed to be a breach or default of this Contract if such failure or omission shall be caused by, or arise out of, an event of Force Majeure. No obligations of either Party that arose before the occurrence of an event of Force Majeure causing the suspension of performance shall be excused as a result of such occurrence.

9.2. Notice. If either Party’s ability to perform its obligations under this Contract is affected by an event of Force Majeure, such Party shall, as promptly as reasonably possible, upon learning of such event and ascertaining that it will delay its performance hereunder (but in any event within ten (10) Business Days after the occurrence of such event of Force Majeure), give a Delay Notice to the other Party. The Delay Notice shall state the nature of the Force Majeure event, its anticipated duration and effect upon the performance of such Party’s obligations, and any action being taken to avoid or minimize its effect. The burden of proof shall be on the Party claiming to be affected by the event of Force Majeure.

9.3. Scope of Suspension; Duty to Mitigate. The suspension of performance due to an event of Force Majeure shall be of no greater scope and of no longer duration than is reasonable in light of the nature and magnitude of such event. Suspension of performance due to an event of Force Majeure, and any related remedy therefor, shall be

permitted (i) only if the affected Party could not have avoided the impacts of the Force Majeure event by the exercise of due diligence, and (ii) only if by the exercise of due diligence, the affected Party is unable to overcome or obtain or cause to be obtained a substitute for suspension of performance. The excused Party shall use its reasonable efforts to: (a) mitigate the duration of, and the costs arising from, any suspension or delay in its performance; (b) continue to perform its obligations hereunder; and (c) remedy its inability to perform. When the affected Party is able to resume performance of its obligations under this Contract, such affected Party shall give the other Party Notice to that effect.

9.4. Removal of Force Majeure. If, within a reasonable time after an event of Force Majeure that has caused Contractor to suspend or delay performance of the Work, action to be undertaken has been identified and recommended to Contractor, and Contractor has failed within five (5) Business Days after receipt of Notice thereof from Owner to take such action as Contractor could lawfully and reasonably initiate to remove or relieve either the Force Majeure event or its direct or indirect effects, Owner may, in its sole discretion and after Notice to Contractor, initiate such reasonable measures as will be designed to remove or relieve such Force Majeure event or its direct or indirect effects and thereafter require Contractor to resume full or partial performance of the Work. To the extent Contractor's failure to take such measures results in additional expense in addition to what Owner would have paid to Contractor (whether as part of the original Contract Price, as additional compensation to the extent the requested measures constituted a Change in Work altering the scope of the Work, or as additional out of pocket expenses incurred by Owner), had Contractor taken such measures, such additional expense shall be for Contractor's account.

9.5. Responsibility of Contractor. Damages or injuries to Persons or properties resulting from an event of Force Majeure during the performance of the obligations provided for in this Contract shall not relieve Contractor of the indemnity responsibility described in Section 25.2.

9.6. Contractor's Force Majeure Remedy. Contractor's sole remedy for the occurrence of an event of Force Majeure shall be for Contractor and Owner to process a Change in Work for an extension of time only in accordance with Article 17. Notwithstanding the foregoing, in the event a Force Majeure delay continues for a period of more than 180 consecutive days or 270 days in the aggregate, Contractor shall have the right to terminate this Contract by then providing five (5) days' written notice to Owner, unless during such notice period the Force Majeure delay no longer is present within such 5-day period.

10. SUBCONTRACTORS

10.1. Use of Subcontractors; Owner's Right to Object. Within sixty (60) days after the Notice to Proceed Date, Contractor shall provide Owner with any revisions to the list of Major Subcontractors provided in Exhibit Y. Within thirty (30) days after receipt of such list, Owner shall have the right to advise Contractor of any such potential Major Subcontractor to which it objects, together with the reasons for objection.

Contractor shall remove from the list any potential Major Subcontractor to which Owner objects. If Owner fails to respond within such thirty (30) day period, Owner shall be deemed not to have objected to any potential Major Subcontractor on the list. Contractor shall have the right to add a potential Major Subcontractor to the list subject to the procedures set forth above; provided, however, that the review period for Owner shall be reduced to fifteen (15) days after physical construction of the Project has commenced. Except for those listed in Exhibit Y, no Major Subcontractor in connection with the Work covered by this Section 10.1 shall be engaged by Contractor prior to completion of the review process set forth in this Section 10.1. Contractor shall ensure applicable Contract provisions are included in its subcontracts.

10.2. No Approvals; Contractor Responsible for Work. Neither the use by Contractor of any Subcontractor, nor the review or failure to object by Owner of any Major Subcontractor under this Article 10, shall: (a) constitute any approval of the Work undertaken by any Subcontractor; (b) cause Owner to have any responsibility for the actions, the Work, or payment of any Subcontractor or to be deemed to be in a contractual or an employer-employee relationship with any Subcontractor; or (c) in any way relieve Contractor of its responsibilities and obligations under this Contract. Contractor shall be responsible for all Work performed by each Subcontractor. In no event shall any act or omission by any Subcontractor in performing the Work constitute an event of Force Majeure except to the extent caused by an event or circumstance that itself constitutes an event of Force Majeure. Notwithstanding anything in Article 7 to the contrary, in no event shall Contractor submit any Contractor's Invoice with respect to work performed by any Major Subcontractor prior to the expiration of the review period provided in Section 10.1.

10.3. Assignment. No subcontract or purchase order shall bind or purport to bind Owner, but each subcontract and purchase order entered into by Contractor with respect to the Work with a Major Subcontractor will contain a provision in the form of Exhibit T permitting its assignment to Owner upon Owner's written request, following the termination of this Contract after issuance of Notice to Proceed.

10.4. Information; Access. Contractor shall furnish information and access relative to any Subcontractors as Owner may reasonably request. Information Owner may reasonably request may include technical specifications, drawings, operating and maintenance manuals, spare parts lists, sourcing information for spare parts and consumables, mill certifications, inspection and test reports, x-rays and training materials relative to the Work.

11. LABOR RELATIONS

11.1. General Management of Employees. Subject to Section 4.18, and notwithstanding the provisions of Section 11.2, Contractor shall preserve all rights to exercise and shall exercise its management responsibilities in performing the Work. Such management rights shall include the rights to hire, discharge, promote, and transfer employees; to select and remove foremen or other Persons at other levels of supervision; to establish and enforce reasonable standards of production; to introduce, to the extent

feasible, labor saving equipment and materials; to determine the number of craftsmen necessary to perform a task, job, or project; and to establish, maintain, and enforce rules and regulations conducive to efficient and productive operations. Contractor shall enforce strict discipline and good order among Contractor's employees and Subcontractors' employees. Contractor shall not permit employment of unfit Persons or Persons not skilled in the tasks assigned to them.

11.2. Labor Disputes. Contractor shall use, and shall cause each Subcontractor to use, all commercially reasonable efforts to minimize the risk of labor related delays or disruption of the progress of the Work. Contractor shall promptly take, and shall cause each Subcontractor to take, any and all reasonable steps that may be available in connection with the resolution of violations of collective bargaining agreements or labor jurisdictional disputes, including the filing of appropriate processes with any court or administrative agency having jurisdiction to settle, enjoin, or award damages resulting from violations of collective bargaining agreements or labor jurisdictional disputes. Contractor shall advise Owner promptly, in writing, of any actual or threatened labor dispute of which Contractor has knowledge that might materially affect the performance of the Work by Contractor or by any Subcontractor. Notwithstanding the foregoing, the settlement of strikes, walkouts, lockouts or other labor disputes shall be at the discretion of the Party having the difficulty, but no strike, walkout, lockout or other labor dispute shall be the basis for a claim for delay or event of Force Majeure by Contractor except as otherwise provided in this Contract.

11.3. Personnel Documents. Contractor shall ensure that all its personnel and require that the personnel of any Subcontractor performing the Work at the Site are, and at all times shall be, in possession of all such documents (including, without limitation, visas, driver's licenses, work permits and any other required certifications) as may be required by any and all Applicable Laws.

11.4. Labor Requirements. Contractor shall require that all construction contracts and subcontracts of any tier for the Work be awarded in compliance with Utah State and Federal and all other Applicable Law. Contractor shall, and shall award construction contracts and subcontracts of any tier for the Work (i) in compliance with the requirements of Federal and Utah state laws and regulations and (ii) on a Merit Shop basis or (iii) through a project labor agreement. Contractor and each of its Subcontractors shall, subject always to the requirements of law or regulation or applicable collective bargaining agreement, and to the extent commercially reasonable, perform the Work using Utah labor. Any contract or subcontract shall be awarded on the basis of the best value to the Project, including an evaluation of the Subcontractors' ability to work in harmony with others working on the Project, including Contractor, the existing labor force, Governmental Authorities, and without regard to whether or not the successful bidder is signatory or non-signatory to agreements with labor organizations. Contractor shall, and shall require each Subcontractor to, refrain from any discrimination against any employee on the basis of such employee's membership in any labor organization, or his or her lack of such membership. All employees working on the Project shall be permitted to exercise their right to engage in protected concerted activity, as defined in Section 7 of the National Labor Relations Act, as amended, or to refrain from doing so, without any

discrimination or other adverse consequence. Contractor shall, and shall require each of its Subcontractors to, comply with Applicable Law regarding labor relations and employment matters. Any administrative or civil proceedings filed against Contractor or any Subcontractor shall be promptly reported to Owner by Contractor. Nothing in this provision shall affect any obligation of Contractor or any Subcontractor under a lawful collective bargaining agreement applicable to some or all of such Person's operations on the Project.

11.5. Collective Bargaining Agreements. Contractor shall be aware of, and familiar with, the collective bargaining agreement attached hereto as Exhibit AA, which may pertain to or affect the Work or other work at the Site. Contractor shall plan and conduct its operations so that its employees and its Subcontractors of any tier will work harmoniously with Owner's employees and other workers employed on the same or related projects to assure that there will be no delays, work stoppages, excessive labor costs, or other labor difficulties. Contractor shall require that Contractor and each and every one of its Subcontractors complies with all Applicable Law pertaining to such labor.

11.6. Utah Commencement Filing. Upon commencement of Work, Contractor shall timely file, or cause to be timely filed, a "notice of commencement" as that term is defined in Utah Code Ann. § 38-1-31. Contractor shall provide Owner, upon request, copies of any preliminary notices filed with the State Construction Registry and any other similar notices received from any of its Subcontractors related to the Work on the Project. Promptly upon completion of the Work identified in any "notice of commencement", Contractor shall file a "notice of completion" as allowed by Utah law.

11.7. Scarcity and Quality of Labor. Contractor shall have no claim for an extension of the Substantial Completion Guaranteed Date or a claim for loss, damage or additional costs of any kind in respect of any alleged or proved unsuitability, scarcity, inefficiency, or sufficiency of the labor it may engage or wish to engage.

11.8. Equal Employment Opportunity and Other Non-Discrimination Clauses.

(a) Contractor shall, at all times, comply with all Applicable Law applicable to employees, including without limitation those governing wages, hours, desegregation, employment discrimination, employment of minors, health and safety. Contractor shall comply with equal opportunity laws and regulations to the extent that they are applicable.

(b) Contractor shall indemnify, defend and hold harmless the Owner Indemnitees from and against any and all Losses by reason of any violation thereof or arising out of its Subcontractors' failure to so comply.

(c) Upon Owner's request, Contractor will and will cause its Subcontractors to, as necessary, provide such information as may be required by Owner in order to respond to any Governmental Authority with respect to matters involving compliance with the Applicable Laws described in this Article 11.

11.9. Workers Compensation. Contractor shall comply with all Applicable Law regarding workers' compensation and shall, prior to commencing Work, furnish proof thereof satisfactory to Owner.

12. INSPECTION; EFFECT OF REVIEW AND COMMENT

12.1. Inspection. Owner shall have the right, but not the obligation, to inspect any item of Equipment, material, design, engineering, service, workmanship, permit application, documentation, drawing, specification, or any other portion of the Work to be provided hereunder, and Contractor shall submit for review by Owner all design criteria, system descriptions, applicable design calculations, quality assurance reports, design drawings, shop drawings, and other documents relating to the Work as required by this Contract, and, to the extent reasonably feasible, arrange for Owner to inspect Equipment or material at the point of fabrication in accordance with the Project Schedule if requested by Owner. Owner shall be responsible for the costs of its personnel and their transportation with respect to such inspection. Before any Work scheduled to be inspected is covered, Contractor shall give Owner timely Notice (a minimum of 24 hours) of its intent to do so to permit Owner to review and determine conformance with this Contract. Should Contractor fail to give such Notice and cover the Work, Contractor must uncover the Work upon Notice by Owner to permit adequate review of the Work. The cost of such uncovering and recovering shall be borne by Contractor whether the Work is found to be in conformance or nonconformance with this Contract. Should Owner fail to respond to Contractor's Notice and Contractor covers the Work, Owner may request and Contractor must uncover the Work. The cost of any such uncovering and recovering shall be borne by Contractor if the Work contains a Defect; and if the Work is found not to contain a Defect, Contractor shall be entitled to request a Change in Work in accordance with Article 17 and such costs shall be borne by Owner.

12.2. Right to Reject Work. Regardless of whether payment has been made therefore, Owner shall have the right to reject any portion of the Work that contains any Defect. Upon such rejection, Contractor shall promptly remedy, at its sole cost and expense, any Defect that is identified by Owner as giving rise to such rejection.

12.3. Third Party Inspection. Contractor understands that Owner and its representatives have the right to observe and inspect the Work, any item of Equipment (including Equipment under fabrication), material, design, engineering, service, or workmanship to be provided hereunder and to observe all tests of the Work and the Project (including factory or other tests performed at a location other than the Site). Upon reasonable Notice to Contractor by Owner, Contractor shall allow Owner and its representatives reasonable access to the Work (including Equipment under fabrication) and the Project. Contractor shall incorporate such rights into all Equipment purchase orders and subcontracts. To facilitate such observations and inspections, Contractor shall maintain at the Site a complete set of all Drawings and Specifications and the current Project Schedule. Contractor shall comply with all inspection and testing requirements.

12.4. Deliverables Schedule. Within sixty (60) days after the Notice to Proceed Date, Contractor shall provide a Notice to Owner attaching a Deliverables Schedule

identifying all Contractor Deliverables to be delivered to Owner, the deadline for delivery thereof, and Owner's time period for review and comment with respect thereto. The Deliverables Schedule shall include, without limitation, the Drawings and Specifications, Contractor Deliverables and all other documents that Contractor is required to deliver under this Contract. Owner shall have the right to promptly review and comment on such Deliverables Schedule. If Owner provides any comments with respect to the Deliverables Schedule to Contractor, then Contractor shall incorporate changes into such Deliverables Schedule addressing such comments, and resubmit the same to Owner. Such incorporation of changes to address Owner's comments shall not be considered a Change in Work. If Owner fails to comment within thirty (30) days after receipt of such Notice, Owner shall be deemed to have accepted such Deliverables Schedule.

12.5. Owner Review of Contractor Deliverables. Contractor shall submit for review to Owner hard (printed) copies and electronic copies (in a format agreed to by Owner) of all Contractor Deliverables in accordance with the requirements of this Contract, including the Deliverables Schedule. In case of discrepancy between the electronic and hard copy version of the document, the hard copy shall control. Contractor shall ensure that all such items undergo a comprehensive independent in-house review and approval process before submission of such items to Owner. After receipt of any Contractor Deliverable, Owner shall have the right, during the time period for Owner's review specified in the Deliverables Schedule (but in no event less than 14 days after receipt thereof by Owner), to describe any Defects in such Contractor Deliverable. Notwithstanding anything in Article 7 to the contrary, in no event shall Contractor submit any Contractor's Invoice with respect to Work performed pursuant to any such Contractor Deliverables prior to the expiration of the review period set forth in this Section 12.5. In no event shall Contractor issue any purchase orders based on any Contractor Deliverables until Owner has completed its review during the time period specified in the Deliverables Schedule.

12.6. Remedy of Defects. If Owner identifies any Defects with respect to any Contractor Deliverables submitted for review, then Contractor shall incorporate changes into such Contractor Deliverables addressing and remedying the Defects and resubmit the same to Owner, and such incorporation of changes to address Owner's comments shall not be considered a Change in Work. No Contractor Deliverable subject to this Section 12.6 shall be released for use in connection with the Work prior to completion of the review process set forth in Section 12.5.

12.7. Limitation on Owner's Obligations. Any inspection, review, approval or comment under this Article 12 by Owner is solely at the discretion of Owner and shall not in any way affect or reduce Contractor's obligations to complete the Work in accordance with the provisions of this Contract or be deemed to be acceptance by Owner with respect to such Work.

13. MECHANICAL COMPLETION OF THE WORK

13.1 Mechanical Completion. Mechanical Completion shall be achieved when each of the following have been completed:

(a) the Project is mechanically, electrically, and structurally constructed with all control systems installed and connected in accordance with the requirements of this Contract, and the Mechanical Completion Tests have been successfully completed in accordance with Exhibit A, Appendix M;

(b) each sub-system of the Project is functionally complete to the extent necessary for initial operation, adjustment, and testing;

(c) Contractor has complied with all provisions of this Contract relating to the installation of all necessary components and sub-systems for the Project;

(d) Contractor has provided to Owner all Contractor Deliverables that are due on or prior to the Mechanical Completion Date, including without limitation, the Spare Parts List, in accordance with the terms of this Contract; and

(e) Contractor has delivered to Owner a Notice of Mechanical Completion: (a) certifying that all the preceding conditions in this Section 13.1 have been fully satisfied; and (b) accompanied by a report of the results of each of the Mechanical Completion Tests and the Work completed with such detail as is mutually agreed by the Parties in order to enable Owner to determine whether Mechanical Completion has been achieved; provided, however, that if Owner subsequently raises a valid objection to such certificate in accordance with Section 13.3, such certificate will not be deemed to be delivered until any such objection is satisfied.

13.2. Owner's Certificate of Mechanical Completion. The Mechanical Completion Date shall be the date on which the conditions of Section 13.1 were fully satisfied or, in the sole discretion of Owner, waived. Promptly after Mechanical Completion has been achieved (including any correction of Defects pursuant to Section 13.3), Owner shall issue the Certificate of Mechanical Completion dated to reflect the Mechanical Completion Date. Owner shall be deemed to have given the Certificate of Mechanical Completion unless Owner has identified in writing any additional or remaining deficiencies to satisfying the provisions of Section 13.1 within the applicable period set forth in Section 13.3.

13.3. Correction of Deficiencies. Within five (5) days after receipt of any Notice of Mechanical Completion, Owner shall have the right to advise Contractor in writing of any deficiencies to satisfying the provisions of Section 13.1 which Notice shall identify the basis upon which Owner has made such determinations. Contractor shall then perform, at Contractor's sole cost and expense, corrective measures to remove such deficiencies and shall deliver to Owner a new Notice of Mechanical Completion when completion of the applicable Work has occurred. Within three (3) days after receipt of each subsequent notification, Owner shall have the right to advise Contractor, in writing, of any additional or remaining deficiencies that must be corrected by Contractor as a

condition to such completion. Any disputes regarding the existence or correction of any such alleged deficiencies shall be resolved pursuant to Article 32.

13.4. Early Operation of the Project. Contractor shall not begin operation of the Project until Contractor has achieved Mechanical Completion and provided Notice to Owner that Contractor intends to commence start-up of the Project. Notwithstanding the previous sentence, Contractor may operate or commence start-up of one or more separate sub-systems of the Project provided that such sub-system of the Project satisfies the conditions set forth in Section 13.1(b) through Section 13.1(e). From Mechanical Completion through Substantial Completion of the Project, the Project shall be operated under Contractor's direction and all revenues generated as a result of the operation of the Plant or the Project shall be for Owner's account.

(a) The Project shall be operated by the Operating Personnel under the supervision of Contractor after training in accordance with Section 3.2 and Section 4.24 until Substantial Completion of the Project;

(b) Owner shall provide those Production and Construction Inputs reasonably necessary to operate the Project in accordance with Section 3.4;

(c) Owner and Contractor shall work together to schedule deliveries of Production and Construction Inputs necessary for the operation of the Project; and

(d) Owner and Contractor shall work together to schedule the hours of operation of the Project. If Owner in good faith believes that the operation of the Project may not be in Owner's best interest over any period of time, then Owner may direct Contractor by Notice not to operate the Project during such period. If Owner directs Contractor not to operate the Project pursuant to the preceding sentence, then Contractor shall be entitled to request a Change in Work in accordance with Article 17.

14. TESTS AND TEST PROCEDURES

14.1. Performance Tests. Contractor shall cause an independent third party Subcontractor that is acceptable to Owner to conduct the Performance Tests as soon as practical in accordance with this Contract, the procedures and protocols of Exhibit A, Appendix M and the other tests, procedures and protocols to be developed by the Parties. All Performance Tests, including any re-testing that is necessary to meet the Performance Guarantees shall be at Contractor's sole cost (except for the cost of natural gas, raw water and backfeed electrical capacity and energy which shall be borne by Owner). At least nine (9) months prior to the Guaranteed Substantial Completion Date, Contractor shall deliver to Owner a supplement to Exhibit A, Appendix M further outlining the tests and procedures to be followed in conducting the Performance Tests. Such supplement shall include, at a minimum, provisions addressing (a) testing procedures for each item of Equipment, (b) functional performance tests for starting up the Project under different specified operating conditions and (c) any other activities that, in accordance with Prudent Industry Practices, should be included. Thereafter, the Parties shall promptly agree on modifications to such supplement so that Exhibit A, Appendix M, as

supplemented, is satisfactory to Owner. Contractor shall provide Owner with notice when the Project is ready for Performance Testing.

14.2. Emissions Guarantee. Contractor shall conduct the Performance Tests in accordance with Exhibit A, Appendix M and, as a condition of Substantial Completion, shall demonstrate that emissions from the Project meet the Guaranteed Emissions. If at any time during the Performance Tests the Guaranteed Emissions are not met, either in whole or in part, Contractor shall, at its sole cost and expense, diligently make such changes, modifications and/or additions to the Project or any part thereof as may be necessary to achieve the Guaranteed Emissions, as provided in Exhibit A, Appendix M. Contractor shall notify Owner upon completion of the necessary changes, modifications or additions, and Contractor shall repeat the Performance Tests as necessary until the Guaranteed Emissions have been met. In the event that any adjustments made by Contractor result in failure to meet the Guaranteed Emissions at any time, Contractor shall be responsible to remedy such conditions at its own cost. Nothing contained in this Section 14.2 shall relieve Contractor of Contractor's obligation to pay liquidated damages under this Contract.

14.3. Cost and Direction. The Performance Tests shall be conducted by and under the direction of Contractor. Owner will cooperate with Contractor's reasonable requests in connection with the Performance Tests, and shall provide all required electricity, raw water, natural gas, and operating personnel but shall not be required to provide any additional materials or consumables. Contractor shall provide all other necessary Materials (excluding electricity, raw water and natural gas) and consumables, and all personnel necessary to supervise startup and the conducting of the Performance Tests, and shall provide all necessary technical assistance and advice in connection with the Performance Tests. Except as approved by Owner in writing, Contractor shall not use Owner personnel in excess of the normal contingent of Project operations staff to operate the Project during the Performance Tests. During training and conducting the Performance Tests, Owner's operating personnel shall be working under the technical direction and instruction of Contractor and Contractor shall be responsible for the accuracy of its instructions/directions provided to Owner's operating personnel and all actions of Owner's operating personnel, except to the extent of any gross negligence or willful misconduct on the part of such personnel.

14.4. Owner's Right to Validate. Owner, in connection with the performance of this Contract by Contractor, shall have the right and opportunity to be present and observe the Performance Tests and shall have the right and opportunity in advance of or during the Performance Tests to inspect and validate all meters, meter readings and other pertinent data necessary to verify the results of the Performance Tests. Owner shall provide reasonable notice to Contractor of any such observation and inspection, including the specific information desired and method of obtaining such information. Contractor and Owner shall coordinate such observation, inspection and validation so as not to interfere with the Performance Tests, yet provide for a verifiable result. Owner shall have the same rights with respect to any other Performance Tests conducted by Contractor as set forth above.

14.5. Additional Performance Tests. During the Performance Tests, Contractor, at its sole expense, may, in consultation with Owner, make adjustments to the Project which are necessary to achieve the Performance Guarantees; provided that such adjustments are consistent with the Specifications and that Contractor may not make an adjustment for any Performance Test or part of a Performance Test that is inconsistent with the manner in which the Project is configured or operated in any other Performance Test or part of a Performance Test. After the Substantial Completion Date, Contractor may, unless Owner reasonably objects, make any additional tests to meet the Performance Guarantees at its own risk and cost (excluding natural gas, raw water and other consumables and operators necessary for operation of the Project which shall be borne by Owner) pursuant to Section 16.3. Contractor must coordinate any Performance Tests performed after Substantial Completion with Owner in advance of such Performance Tests. Owner shall use commercially reasonable efforts to accommodate Contractor's requested testing schedule, subject to its prudent operating demands. Owner reserves the right to modify its dispatch schedule for operating emergencies (including Owner's need for prompt dispatch of power), but shall not otherwise be required to modify its dispatch schedule to accommodate any proposed changes to the Performance Tests. To the extent such tests damage the Project in any way, then Contractor shall bear all costs of making good such damage and of all Losses resulting from such damage. If Contractor's adjustments or such test causes the Project to no longer meet any of the Make Good Guarantees or results in actual performance outside of any of the performance thresholds required to be eligible to buy-down unachieved performance pursuant to Article 16, then Contractor shall, at its sole cost, re-perform all work required to cause the Project to meet the Make Good Guarantees or the requisite performance thresholds, and conduct the Performance Tests to verify actual performance levels. Additionally, Contractor shall compensate Owner for all third party costs associated with re-conducting the Performance Tests. Unless Contractor is obligated to meet a Make Good Guarantee or improve a performance level or unless Owner otherwise agrees, no additional tests shall take place after the date that is one hundred eighty (180) days after the Substantial Completion Date. Performance Liquidated Damages shall be due and payable upon the earlier of (a) thirty (30) days following delivery of the Final Performance Test Report, or (b) the Final Completion Date. Owner shall have the exclusive right to all electric energy generated by the Project including during any Performance Tests or any other tests.

14.6. Timing. Contractor shall give Owner at least ninety (90) days prior notice of the date on which the first Performance Tests will begin and at least five (5) days prior notice of a change in the Performance Test schedule. Owner may request that Contractor conduct the Performance Tests at another time more convenient to Owner, which request shall set forth the reasons therefor and, if such other time materially impacts the Project Schedule, such delay shall be considered an Owner Caused Delay and Contractor may request a Change Order in accordance with Article 17.

14.7. Test Reports. Contractor shall deliver to Owner a preliminary test report, including the test data sheets and calculated results for each Performance Test or retest (the "Preliminary Performance Test Report"), promptly after completion of each Performance Test, together with a notice to Owner certifying completion of the

Performance Tests in accordance with this Contract and results of such Performance Tests. Promptly after receipt of such Preliminary Performance Test Report, Owner and Contractor shall consult concerning the results of such tests, and within three (3) days thereafter, Owner shall (i) state it concurs with the results of the Performance Tests or (ii) state it disputes the results of the Performance Tests and stating in detail the reasons therefor. Within fifteen (15) Business Days following completion of the Performance Tests, Contractor shall provide to Owner a final test report, including test data sheets and calculated results of each Performance Test or retest (the “Final Performance Test Report”) and a final notice to Owner certifying completion of the Performance Tests. Within fifteen (15) days of receipt of such documentation from Contractor, Owner shall either (i) accept the Performance Test results and, if applicable, send a Notice for Payment of Liquidated Damages, or (ii) state that it disputes the results of the Performance Tests and the reasons therefor. If Owner disputes the accuracy of the Performance Tests results in the Final Performance Test Report, then Contractor shall re-perform the applicable Performance Tests (or part thereof) in accordance with the procedures set forth in Exhibit A, Appendix M. If the results of the re-test confirm the accuracy of the initial test, then Owner shall pay the increased costs directly resulting from the re-test. If the results of the re-test do not confirm the accuracy of the initial test, then Contractor shall pay for the costs of the re-test and any subsequent tests necessary to confirm compliance with all Performance Guarantees.

14.8. Failure on Tests. If after the inspection or testing of any of the Work, Owner decides, in its reasonable discretion, that such Work or any part thereof is Defective or not in accordance with this Contract, it may reject the Work or any part thereof by giving to Contractor, within ten (10) Days, notice of such rejection, stating therein the grounds upon which the rejection decision is based. Following any such rejection, Contractor shall either dispute, in good faith, Owner’s determination pursuant to Article 32, or replace or repair the Equipment, the Project or part thereof rejected and re-submit the same for test or inspection in accordance with this clause. All third party costs reasonably incurred by Owner in attending or in consequence of such re-testing or inspection and Owner’s designated representatives’ attendance shall be deducted from the Contract Price.

15. SUBSTANTIAL COMPLETION AND FINAL COMPLETION OF THE PROJECT

15.1 Substantial Completion. Substantial Completion shall be achieved when each of the following has been completed:

- (a) Contractor has achieved Mechanical Completion;
- (b) Contractor has completed the Performance Tests set forth in Exhibit A, Appendix M, which are required to be completed as a condition of Substantial Completion and the following are satisfied;

- (i) the Project shall have achieved one hundred percent (100%) of the Performance Guarantees identified in Exhibit A, Appendix M that are designated as Make Good Guarantees; and
- (ii) all other requirements for the successful completion of the Performance Tests have been satisfied;
- (c) Contractor has delivered to Owner the Warranty LOC;
- (d) Owner has received copies of all Contractor Acquired Permits required for operation of the Project;
- (e) Contractor has certified by Notice to Owner that it has administered the training required by Section 4.24;
- (f) Contractor has timely provided to Owner all Contractor Deliverables that are due on or prior to the Substantial Completion Date, in accordance with the terms of this Contract;
- (g) the Punchlist and a completion schedule and budget for completion of each Punchlist Item, in each case reasonably satisfactory to Owner, have been developed by Contractor and delivered to Owner, and all Work other than those Punchlist Items shown on the Punchlist shall have been completed;
- (h) all Spare Parts described on Exhibit O and required to be purchased and delivered to the Site by Contractor pursuant to Section 4.35 have been delivered to Owner at the Site;
- (i) the Project may be operated safely in accordance with Prudent Utility Practices and manufacturer's warranties while meeting Industry Standards, Applicable Permits, Applicable Laws and the Performance Guarantees, and without damage to the Plant, Project or any sub-system and without injury to any Person;
- (j) no Contractor Event of Default exists under Section 20.1(c) with respect to any representation or warranty in Section 5.1, Section 20.1(d), Section 20.1(e) or, provided such Contractor Event of Default has been declared in good faith by Owner and is not being declared solely as a means to delay Substantial Completion, Section 20.1(f); and
- (k) Contractor has delivered to Owner a Notice of Substantial Completion: (a) certifying that all the preceding conditions in this Section 15.1 have been fully satisfied; and (b) accompanied by a report of the Work completed with sufficient detail to enable Owner to determine whether Substantial Completion has been achieved; provided that if Owner subsequently raises a valid objection to such certificate, in accordance with Section 15.2, such certificate will not be deemed to be delivered until such objections are satisfied.

15.2 Owner's Certificate of Substantial Completion. The Substantial Completion Date shall be the date on which the conditions of Section 15.1 were fully satisfied or, in the sole discretion of Owner, waived. Promptly after Substantial Completion has been achieved as provided above, Owner shall issue the Certificate of Substantial Completion dated to reflect the Substantial Completion Date. Owner shall be deemed to have given the Certificate of Substantial Completion unless Owner has identified in writing any additional or remaining deficiencies to satisfying the provisions of Section 15.1 within the applicable period set forth in this Section 15.2. Within fifteen (15) days after receipt of any Notice of Substantial Completion, Owner shall have the right to advise Contractor in writing of any deficiencies to satisfying the provisions of Section 15.1, which Notice shall identify the basis upon which Owner has made such determination. Contractor shall then perform, at Contractor's sole cost and expense, corrective measures to remove such deficiency and shall deliver to Owner a new Notice of Substantial Completion when Substantial Completion has occurred. Within three (3) days after receipt of each subsequent notification, Owner shall have the right to advise Contractor, in writing, of any additional or remaining deficiencies that must be corrected by Contractor as a condition to Substantial Completion. Any disputes regarding the existence or correction of any such alleged deficiencies shall be resolved pursuant to Article 32.

15.3. Operation of the Facility. Owner shall take possession and control of the Facility upon the occurrence of Substantial Completion and shall thereafter be responsible for the operation and maintenance of the Facility, and Owner agrees to operate and maintain the Facility in accordance with the Applicable Permits, Applicable Laws, Prudent Utility Practice and the other requirements set forth in this Contract. Prior to such possession and control by Owner, Contractor shall, in performing any start-up, commissioning and testing activities, in consultation with Owner and its Operating Personnel, operate the Facility in a manner consistent with Applicable Laws, Applicable Permits, Prudent Utility Practice and the other requirements set forth in this Contract. The transition of such possession and control of the Facility from Contractor to Owner as set forth above shall be accomplished in accordance with the procedures to be set forth in an operations transition plan to be initially developed by Contractor no later than one hundred and twenty (120) days prior to the anticipated Substantial Completion Date which plan shall be subject to Owner's review and reasonable approval.

15.4. Operating Consumables. After Substantial Completion, in connection with the performance by Contractor of any warranty work, Owner shall supply all normal Operating Consumables (other than as specified herein or in Exhibit A).

15.5. Access Following Substantial Completion. After Owner takes possession and control of the Facility pursuant to Section 15.3 hereof, Owner shall provide Contractor with reasonable access to the Facility in order to complete the Work, including the Punchlist Items and, if applicable, to attempt to achieve one hundred percent (100%) of the Performance Guarantees pursuant to Section 14.5; provided, however, following Substantial Completion, Owner shall not be obligated hereunder to take an outage and/or de-rate, or otherwise interfere with its operation of the Project as a direct or indirect result of allowing Contractor access pursuant to this Section 15.5.

Contractor shall complete the Work and shall perform its obligations using its reasonable efforts to minimize interference to the operations of the Facility and only as scheduled by mutual agreement of the Parties. Contractor shall, except to the extent otherwise agreed by the Parties, use all reasonable efforts to promptly complete all Punchlist Items after the Substantial Completion Date. The Parties expect that Contractor will accomplish any necessary modifications, repairs and Punchlist Items with minimal interference with the commercial operation of the Facility.

15.6. Final Completion. Final Completion of the Work shall be deemed to have occurred only if all of the following have occurred:

(a) Contractor has achieved Substantial Completion in accordance with Section 15.1;

(b) Contractor has successfully completed all Performance Tests set forth in Exhibit A, which are required to be completed as a condition to Final Completion;

(c) [Reserved.]

(d) Owner has received all Contractor Deliverables in accordance with the terms of this Contract, including, without limitation, all conformed to construction record drawings;

(e) all special tools and Spare Parts purchased by Contractor have been delivered to Owner free and clear of liens;

(f) all Contractor's and Subcontractors' personnel, supplies, tools, construction equipment, machinery, surplus materials, waste materials, rubbish, and temporary facilities to which Owner does not, and is not entitled to hold title, have been removed from the Site, and any permanent facilities used by Contractor and the Site have been restored in accordance with the terms of this Contract. All cleanup and disposal shall be conducted in accordance with all Applicable Laws;

(g) Owner has received from Contractor the information required in Section 4.12;

(h) Contractor has paid Owner all amounts due hereunder and not in dispute;

(i) Contractor has assigned to Owner or provided Owner with all warranties or guarantees that Contractor received from Subcontractors to the extent Contractor is obligated to do so pursuant to Section 18.6;

(j) the Punchlist Items have been completed to the satisfaction of Owner, or Owner has elected to require Contractor to pay the commercial value of the remaining Punchlist Items, as mutually agreed to by the Parties, in lieu of completing such Punchlist Items;

(k) Contractor has delivered all Contractor Deliverables, including without limitation all record (as-built) drawings identified as such in the specifications set forth in this Contract;

(l) Contractor has delivered the Final Release and Waiver of Liens and Claims, or the bonds, in accordance with Section 7.6 and has delivered such other documents and certificates as Owner has reasonably requested to ensure compliance with all Applicable Laws;

(m) [Reserved.]; and

(n) Contractor has delivered to Owner a Notice of Final Completion stating that Contractor believes it has fully satisfied the provisions of Sections 15.6(a) through (m).

15.7. Owner's Certificate of Final Completion. The Final Completion Date shall be the date on which the conditions of Section 15.6 were fully satisfied or, in the sole discretion of Owner, waived. Promptly after Final Completion has been achieved, Owner shall issue the Certificate of Final Completion dated to reflect the Final Completion Date. Owner shall be deemed to have given the Certificate of Final Completion unless Owner has identified in writing any additional or remaining deficiencies to satisfying the provisions of Section 15.6 within the applicable period set forth in this Section 15.7. Within thirty (30) days after receipt of any Notice of Final Completion, Owner shall have the right to advise Contractor in writing of any deficiencies to satisfying the provisions of Section 15.6, which Notice shall identify the basis upon which Owner has made such determination. Contractor shall then perform, at Contractor's sole cost and expense, corrective measures to remove such deficiency and shall deliver to Owner a new Notice of Final Completion when Final Completion has occurred. Within three (3) days after receipt of each subsequent notification, Owner shall have the right to advise Contractor, in writing, of any additional or remaining deficiencies that must be corrected by Contractor as a condition to Final Completion. Any disputes regarding the existence or correction of any such alleged deficiencies shall be resolved pursuant to Article 32.

15.8. Changes in Guaranteed Date. Except as otherwise set forth herein, no action by Owner or Contractor (unless Owner specifically agrees to the contrary) required or permitted under this Article 15 shall affect the Project Guaranteed Date.

16. DELAY AND PERFORMANCE LIQUIDATED DAMAGES; AND BUY-DOWN AMOUNTS

16.1. General. The Parties agree that it is difficult or impossible to determine with precision the amount of damages that would be incurred by Owner as a result of Contractor's failure to meet the Substantial Completion Guaranteed Date or the Performance Guarantees. Accordingly, the Parties expressly agree that if Contractor fails to achieve Substantial Completion prior to the Substantial Completion Guaranteed Date, fails to achieve the Performance Guarantees, exceeds [eighty (80)] Equivalent (or

Factored) Starts or [seven hundred (700)] Equivalent Base (or Factored Fired) Hours pursuant to Section 16.4, or fails to achieve the Availability Guarantee; any sums payable under this Article 16 because of such failures are liquidated damages and not a penalty, and are fair and reasonable and any such sums represent a reasonable estimate of fair compensation for the losses that may reasonably be anticipated from such failures.

16.2. Liquidated Damages for Delay in Substantial Completion. If the conditions for Substantial Completion have not been satisfied on or prior to close of business on the Substantial Completion Guaranteed Date, then Contractor shall pay Owner liquidated damages, for each day until Substantial Completion has been achieved, in an amount equal to One Hundred and Forty Thousand Dollars (\$140,000) per day for the first thirty-one (31) days following the Substantial Completion Guaranteed Date and Two Hundred and Thirty Thousand Dollars (\$230,000) per day thereafter (collectively, the “Delay Liquidated Damages”).

16.3. Liquidated Damages for Net Capacity and Net Heat Rate. If the conditions for Substantial Completion have not been satisfied on or prior to close of business on the Substantial Completion Guaranteed Date, then Contractor shall pay Owner liquidated damages, for each day until Substantial Completion has been achieved, in an amount equal to One Hundred and Forty Thousand Dollars (\$140,000) per day for the first thirty-one (31) days following the Substantial Completion Guaranteed Date and Two Hundred and Thirty Thousand Dollars (\$230,000) per day thereafter (collectively, the “Delay Liquidated Damages”).

16.4. Liquidated Damages for Startup and Commissioning. If in connection with startup, commissioning and performing the Performance Tests prior to Substantial Completion, Contractor exceeds [eighty (80)] Equivalent Starts or [seven hundred (700)] Equivalent Base Hours per combustion turbine, then Contractor shall pay to Owner, in addition to any other Liquidated Damages, the greater of (a) Thirteen thousand Dollars (\$13,000) per Equivalent (or Factored) Start in excess of [eighty (80)] Equivalent Starts for either combustion turbine; or (b) Five Hundred and Fifteen Dollars (\$515.00) per Equivalent Base (or Factored Fired) Hour in excess of [seven hundred (700)] Equivalent Base (or Factored Fired) Hours for each combustion turbine (the “Start-up Liquidated Damages”). The determination of Equivalent Base (or Factored Fired) Hours and Equivalent (or Factored) Starts shall be pursuant to the combustion turbine manufacturer’s standard definition of same.

16.5. Availability. Contractor shall pay Availability Liquidated Damages as set forth herein, as a result of the failure of the Project to meet the Availability Guarantee prior to Final Completion. To the extent that the actual availability achieved during the availability test is less than [ninety-three percent (93%)], Contractor shall take all corrective action required to achieve the required performance level. In the event that Contractor fails to achieve [ninety-five percent (95%)] Average Equivalent Availability (but has achieved at least [ninety-three percent (93%)] Average Equivalent Availability), Contractor shall compensate Owner (or “buy-down”) for the unachieved availability at a rate of One Million One Hundred Thousand Dollars (\$1,100,000) for each one-tenth of a percent (0.10%) that the availability is less than ninety-five percent (95%) and pursuant

to the calculations set forth in Exhibit A, Appendix M. Any such buy-down amounts shall be “Availability Liquidated Damages.”

16.6. Calculations and Payments of Liquidated Damages.

(a) All amounts payable as Liquidated Damages under this Article 16 shall be made by Contractor, as applicable, pursuant to the calculations in Exhibit A, Appendix M and provided to Owner, together with the applicable payment, within (i) in the case of Section 16.2, thirty (30) days after the final day of each month during which amounts became payable thereunder; and (ii) in the case of Section 16.3 and Section 16.4, thirty (30) days after Owner’s receipt of the Final Performance Test Report. Owner shall have the right to audit such calculations. Contractor shall itemize such calculations and such calculations shall include supporting documentation as Owner shall reasonably request and shall be in sufficient detail to permit Owner to verify each calculation. Owner shall notify Contractor, as soon as reasonably possible of any portion of the calculations with which Owner disagrees.

(b) Liquidated Damages shall bear interest at the Contract Interest Rate, compounded daily from the date such amount was due, but not to exceed the maximum rate of interest permitted by Applicable Law.

(c) Except, and to the extent as allowed in Section 34.10, the Performance LOC shall not be reduced or terminated until Substantial Completion and all Liquidated Damages owed by Contractor have been paid in full.

17. CHANGES IN WORK

17.1 Change in Work. A Change in Work may result only from one of the following:

(a) A change in Work required by Owner in writing, including an acceleration of Work, in accordance with Section 17.2;

(b) A change in Work relating to changes in the requirements of Owner Acquired Permits as provided in Section 4.17;

(c) A change in Work as provided in Section 12.1 (uncovering non-defective work);

(d) A Change in Law;

(e) An Owner Caused Delay;

(f) A change in Work related to materially different subsurface conditions as provided in Section 4.9;

(g) A change in Work arising out of Owner Hazardous Materials;

- (h) An event of Force Majeure;
- (i) Suspension of Work by Owner; or
- (j) An event entitling Contractor the ability to request a Change in Work as otherwise provided for in this Contract.

17.2. By Owner. The Parties acknowledge that the scope of Work set forth in this Contract is descriptive in nature but not necessarily exhaustive, and that Owner shall have the right, from time to time, to issue clarifications of a non-material nature at any time by delivering to Contractor a written clarification provided that such clarifications do not materially impact Contractor's cost or schedule. Owner shall implement material changes to this Contract only through a Change in Work issued in accordance with this Contract. Owner-directed changes in Work may include modifications, alterations, accelerations, additions, or deletions. All such changes shall be made in accordance with this Article 17 and shall be considered, for all purposes of this Contract, as part of the Work.

17.3. By Contractor. Contractor shall be entitled to request a Change in Work to the extent permitted in Section 17.1. Contractor shall deliver written Notice to Owner within ten (10) Business Days after the date that Contractor becomes aware of the event or condition giving rise to the entitlement of Contractor's intention to submit a Change in Work Form in accordance with Section 17.7(a). In the event that Contractor fails to provide the required Notice within the above-described time frame, then Contractor shall not be entitled to request a Change in Work under this Article 17 or any other relief hereunder.

17.4. Adjustments to this Contract. (a) Adjustments to Project Schedule. If Owner requests a Change in Work in accordance with Section 17.2 or if Contractor is entitled to request a Change in Work in accordance with Section 17.3, and if, as a result, Contractor shall be actually and demonstrably delayed in the performance of a Critical Path Item as scheduled in the Critical Path Schedule, then Contractor may request a Change in Work and upon such request, the Critical Path Schedule (and each Project Guaranteed Date referenced therein) shall be extended by the period of time that Contractor is actually and demonstrably delayed in the performance of the particular Critical Path Item(s). Owner shall have the right, in lieu of extending a Project Guaranteed Date, to request Contractor to accelerate the Work in accordance with Section 17.2.

(b) Adjustments to the Contract Price. Subject to Section 17.4(c), if Owner requests a Change in Work in accordance with Section 17.2 or if Contractor is entitled to request a Change in Work in accordance with Section 17.3, and such Change in Work impacts Contractor's costs of performing the Work, then, the Contract Price shall be changed to reflect the amount of the increased or decreased costs at such fixed price, time and materials rates or unit rates as the Parties may agree. Owner may direct Contractor to proceed with the Change in Work pending negotiation of fixed price, time and materials rates, or unit rates by issuing a written unilateral directive (which shall be considered a

Change in Work Form for purposes of Section 17.7(b)) and Contractor shall continue with the performance of Work. After issuance of such directive, and provided that the Owner and Contractor are unable to agree upon a negotiated adjustment to the Contract Price, Contractor shall be compensated on a time and materials or other basis as may be set forth in Exhibit U. Nothing provided in this Section 17.4(b) shall be construed so as to limit a Party's rights under Article 32.

(c) Reduction In Cost. If a Change in Work involves a reduction in the cost to perform the Work, including a reduction in the use of less labor, resulting in reduced labor costs, there shall be a lump-sum deduction from the Contract Price, which deduction will be based on an equitable amount, inclusive of direct and indirect costs, overhead, margins, contingencies and fees.

17.5. Force Majeure. Upon the occurrence of an event of Force Majeure, if Contractor shall be demonstrably delayed in the performance a Critical Path Item as scheduled in the Critical Path Schedule as a result of such event or circumstance, then Contractor may request a Change in Work pursuant to which the applicable Project Guaranteed Date shall be extended by the period of time Contractor is actually and demonstrably delayed in the performance of the particular Critical Path Item(s) and as set forth in the Change in Work Form accepted by Owner, but there shall be no change to the Contract Price.

17.6. Disputes. If there is a dispute between the Parties about a request for a Change in Work by either Party under this Article 17, such dispute shall be resolved in accordance with Article 32. Notwithstanding any provision of this Article 17 to the contrary, the Parties will execute a Change in Work to reflect the resolution of such dispute.

17.7. Procedures.

(a) Contractor's Estimate. If Contractor is notified of or becomes aware of a Change in Work permitted pursuant to Section 17.1 and has delivered Notice to the Owner of Contractor's intention to submit a Change in Work Form in accordance with Section 17.3, Contractor shall within thirty (30) Business Days after its receipt of such notification or becoming so aware (or such longer period as may be mutually agreed by the Parties), prepare a detailed Change in Work Form setting forth: (a) a description of the work covered by such Change in Work; (b) the estimated cost and time required to implement the Change in Work and a quote for a firm price; and (c) the impact such Change Order would have on: (i) the Progress Payment Schedule; (ii) the Critical Path Schedule; (iii) the Project Guaranteed Date; (iv) the Performance Guarantees; (v) the Warranties; and (vi) any other information that is reasonably requested by Owner to make an informed decision consistent with Prudent Utility Practices. Contractor shall not charge Owner for the costs of preparing the Change in Work Form.

(b) No Change in Work or Payment Therefore Without Executed Change in Work Form. IN NO EVENT SHALL CONTRACTOR BE ENTITLED TO UNDERTAKE OR BE OBLIGATED TO UNDERTAKE ANY CHANGE TO THE

WORK UNTIL CONTRACTOR HAS RECEIVED A CHANGE IN WORK FORM DULY APPROVED BY BOTH PARTIES AND, IN THE ABSENCE OF SUCH SIGNED CHANGE IN WORK FORM, IF CONTRACTOR UNDERTAKES ANY CHANGES TO THE WORK, CONTRACTOR SHALL MAKE ANY SUCH CHANGES TO THE WORK AT CONTRACTOR'S SOLE RISK AND EXPENSE AND SHALL NOT BE ENTITLED TO ANY PAYMENT OR OTHER RELIEF HEREUNDER FOR UNDERTAKING SUCH CHANGES.

17.8. No Suspension. Contractor shall not suspend the Work and Owner shall not suspend its payment obligations hereunder pending resolution of any proposed Change in Work unless directed by Owner in writing in accordance with Article 22.

18. WARRANTIES CONCERNING THE WORK

18.1 Warranty. Contractor provides the following warranties with respect to the Project (collectively the "Warranty") such Warranty to be effective for a two-year period commencing upon the Substantial Completion Date (the "Warranty Period"), as such Warranty Period may be extended as specified in Section 18.2:

(a) that all Work, including the design and construction of the Project and the installation of all Work, including the design and construction of the Project and the installation of the Equipment shall be: (i) in accordance with all Applicable Laws, Applicable Permits and Industry Standards; (ii) free from Defects and other defects of manufacture, construction or design; (iii) in conformance with all applicable requirements of this Contract; and (iv) safe and fit for Owner's use in accordance with Prudent Utility Practices; and

(b) that all Equipment and other items furnished by Contractor and any Subcontractors hereunder shall be new and of good and suitable quality when installed, shall conform to the requirements of this Contract, including Exhibit A, shall be free from any charge, lien, security interest or other encumbrance and shall be free of any Defects. If requested by Owner, Contractor shall provide Owner with satisfactory evidence that any item(s) of Equipment satisfy the Warranty.

18.2. Warranty Extension. Contractor shall have no liability under Section 18.1 from and after the end of the Warranty Period; provided that, the Warranty Period for any item or part required to be repaired, corrected or replaced following discovery of a Defect during the original Warranty Period shall be extended from the time of such repair, correction or replacement for a period equal to the later of (x) the then-remaining original Warranty Period for such item or part, or (y) one (1) year; provided that in no event shall the Warranty Period be extended beyond three (3) years from the Substantial Completion Date.

18.3. Enforcement After Expiration. Commencing on the expiration of the Warranty Period, as extended in accordance with Section 18.2, Owner shall be responsible for enforcing all representations, warranties, and guarantees from Subcontractors, and Contractor shall provide reasonable assistance to Owner, on a

reimbursable basis, in enforcing such representations, warranties, and guarantees, when and as reasonably requested by Owner. In addition, prior to the expiration of the Warranty Period, as extended in accordance with Section 18.2, Owner, at its option and upon prior written Notice to Contractor, may require Contractor to assign any such warranty of a Subcontractor if: (a) Contractor has not enforced such warranty against the Subcontractor in a timely and diligent manner or performed the warranty work itself; or (b) a Contractor Event of Default exists. Upon request by Owner, Contractor shall promptly assign to Owner such Subcontractor warranty rights.

18.4. Exclusions. The Warranty shall not apply to:

(a) Damage to the Work or any Equipment to the extent such damage is caused by:

(i) Owner's failure to operate and maintain such Equipment or Work in accordance with the reasonable and practical recommendations set forth in the Required Manuals or in lieu thereof, with Prudent Utility Practices;

(ii) Owner's operation of such Equipment or Work in excess of reasonable and practical operating specifications for such Equipment or Work as set forth in the Required Manuals;

(iii) The use of parts or consumables in the repair or maintenance of such Equipment or Work that are not in accordance with the reasonable and practical specifications and recommendations set forth in the Required Manuals or in lieu thereof, with Prudent Utility Practices; or

(iv) Any event of Force Majeure.

(b) Operating Consumables or items that require replacement due to normal wear and tear or casualty loss (other than as a result of a Warranty failure).

18.5. Subcontractor Warranties. All warranties of Subcontractors shall, at the request and direction of Owner, and without recourse to Contractor, be assigned, in accordance with the provisions of Section 10.3, to Owner upon termination of this Contract. Contractor shall deliver to Owner promptly following execution thereof duly executed copies of all contracts containing such representations, warranties, guarantees, and obligations.

18.6. Correction of Defects. Owner shall promptly give Notice to Contractor upon discovery of any failure of any of the Work to satisfy the Warranty during the Warranty Period. In the event of any such failure under circumstances in which there is an immediate need as defined in this Section 18.6, then Owner shall perform such warranty work for Contractor's account in accordance with the Warranty Procedures; provided, however, that the failure to comply with such Warranty Procedures shall not void the Warranty. As used in this Section 18.6, an "immediate need" is a situation when there is (a) a threat of imminent harm to Persons or property on the Site, or (b) a situation that in Owner's reasonable determination and consistent with Prudent

Utility Practices could materially adversely impact the operation of the Project that in Owner's reasonable determination requires immediate action for which Contractor has been notified of and, in Owner's reasonable determination, Contractor cannot take such immediate action. In all other cases, Contractor shall, at its own cost and expense (except to the extent of insurance proceeds actually received), re-perform any necessary engineering and purchasing relating to such Equipment, material, labor, and shipping, as well as the cost of removing any Defect and the cost of replacement thereof, including all costs of uncovering (including opening and closing) the Defective Work and any resulting damage to surrounding Work and/or adjacent property, equipment and facilities, as shall be necessary to cause the Work and the Project to conform to the Warranty. Within five (5) days after receipt by Contractor of a Notice from Owner specifying a failure of any of the Work to satisfy Contractor's Warranty and requesting Contractor to correct the Defect, Contractor and Owner shall mutually agree when and how Contractor shall remedy said Defect. If Contractor does not commence to use commercially reasonable efforts to proceed to complete said remedy within the time agreed to, or should Contractor and Owner fail to reach such an agreement within such five (5) day period, Owner shall have the right to perform the necessary remedy, or have third parties perform the necessary remedy, in accordance with the Warranty Procedures and the costs as established pursuant to the Warranty Procedures shall be borne by Contractor; provided, however, that the failure to comply with such Warranty Procedures shall not void the Warranty.

(b) Notwithstanding the foregoing, Contractor shall have the right to request Owner to perform all or any portion of Contractor's obligations with respect to any warranty claim, and, if Owner determines that it has the capability and expertise to perform such obligations, Owner shall perform such obligations and the costs as established pursuant to the Warranty Procedures shall be borne by Contractor; provided, however, that the failure to comply with such Warranty Procedures shall not void the Warranty.

18.7. Limitations On Warranties. EXCEPT FOR THE EXPRESS WARRANTIES AND REPRESENTATIONS SET FORTH IN THIS CONTRACT, CONTRACTOR DOES NOT MAKE and disclaims ANY OTHER EXPRESS WARRANTIES OR REPRESENTATIONS, OR ANY STATUTORY, ORAL, IMPLIED WARRANTIES OR REPRESENTATIONS, OF ANY KIND WHATEVER RELATING TO THIS CONTRACT, THE WORK, OR DESIGN, EQUIPMENT, OR MATERIALS TO BE SUPPLIED BY CONTRACTOR UNDER THIS CONTRACT OR TO THE PROJECT, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES ARISING FROM COURSE OF DEALING OR TRADE USAGE.

19. EQUIPMENT IMPORTATION; TITLE

19.1 Importation of Equipment. Contractor, at its own cost and expense, shall make all arrangements, including the processing of all documentation necessary to import into the United States, Equipment to be incorporated into the Project and any other

equipment and other items necessary to perform the Work and shall coordinate with the applicable Governmental Authorities in achieving clearance of United States customs for all such Equipment and other items and, to the extent available under United States law but without limiting Contractor's liability for any and all import duties, taxes and levies as specified in Section 6.2, achieving such importation duty-free and tax-free. In no event shall Owner be responsible for any delays in customs clearance or any resulting delays in performance of the Work, unless such delay is considered an event of Force Majeure.

19.2 Title.

(a) Subject to receipt of payment therefor, Contractor warrants good title, free and clear of all liens, claims, charges, security interests, and encumbrances whatsoever, to all Equipment and other items furnished by it or any Subcontractor that become part of the Project or that are to be used for the operation, maintenance, or repair thereof.

(b) Title to all Equipment and other items shall pass to Owner, free and clear of all liens, claims, charges, security interests, and encumbrances whatsoever, upon the earlier of payment in full therefore or incorporation into the Project.

(c) The transfer of title shall in no way affect Owner's rights as set forth in any other provision of this Contract. Contractor shall have care, custody, and control of all Equipment and other items (including Equipment and other items imported into the United States) and exercise due care with respect thereto consistent with Section 24.1.

19.3 Protection. For the purpose of protecting Owner's interest in all Equipment and other items with respect to which title has passed to Owner pursuant to Section 19.2 but that remain in possession of Contractor or another Person, Contractor shall take or cause to be taken all steps necessary under the laws of the appropriate jurisdiction(s) to protect Owner's title and to protect Owner against claims by other parties with respect thereto.

20. DEFAULT

20.1 Contractor Events of Default. Contractor shall be in default of its obligations pursuant to this Contract upon the occurrence of any one or more events of default below (each, a "Contractor Event of Default"):

(a) Contractor or Parent Guarantor becomes insolvent, generally does not pay its debts as they become due, admits in writing its inability to pay its debts, or makes an assignment for the benefit of creditors, or insolvency, receivership, reorganization, or bankruptcy proceedings are commenced by Contractor or Parent Guarantor (as applicable);

(b) Insolvency, receivership, reorganization, or bankruptcy proceedings are commenced against Contractor or Parent Guarantor and such proceeding shall remain undismissed or unstayed for a period of thirty (30) days;

(c) Any representation or warranty made by Contractor herein was false or materially misleading when made and Contractor fails to remedy such false or misleading representation or warranty, and to make Owner whole for any consequences thereof, within thirty (30) days after Contractor receives a Notice from Owner with respect thereto;

(d) Contractor assigns or transfers (or attempts to so assign or transfer) this Contract or any right or interest herein, except as expressly permitted under Article 28;

(e) Contractor fails to maintain any insurance coverages required of it in accordance with Article 23 and Contractor fails to remedy such failure within fifteen (15) days after Contractor receives a Notice from Owner with respect thereto;

(f) Contractor fails to perform or observe in any respect any provision of this Contract providing for the payment of an undisputed amount of money to Owner or any other material provision of this Contract not otherwise addressed in this Section 20.1, and such failure continues uncured for thirty (30) days in the case of any other obligation, in each case after Contractor receives a Notice from Owner with respect thereto;

(g) Following approval of a Schedule Recovery Plan pursuant to Section 8.3, Contractor's unexcused failure to stay within sixty (60) days of the schedule set forth in the Schedule Recovery Plan (as determined from the revised Critical Path Schedule established by the Plan); provided, however, that if such failure to stay within sixty (60) days is (i) caused by an insurable event covered by the insurance described in Article 23 or (ii) is caused by major equipment failure or damage and, in either case, Contractor promptly commences and diligently proceeds to stay on schedule, then such default shall not be a Contractor Event of Default until and unless Contractor fails to stay within seventy-five (75) days of the revised Critical Path Schedule established by the Plan.

(h) [Reserved.];

(i) The Substantial Completion Date has not occurred on or before the date that is one hundred twenty (120) days after the Substantial Completion Guaranteed Date.

(j) Contractor suspends or abandons the Work. "Suspension" for the purposes of this Section 20.1(j) shall mean that Contractor has not endeavored to make any progress toward any of the Critical Path Items for a period of seven (7) or more days. "Abandonment" for the purposes of this Section 20.1(j) shall mean that Contractor has substantially reduced personnel at the Site or removed further required equipment from the Site such that, in the opinion of an experienced construction manager, Contractor would not be capable of maintaining progress in accordance with the Critical Path Schedule or the Schedule Recovery Plan.

(k) Contractor's failure to post and maintain Credit Support as required by Section 7 if the failure is not cured within five (5) days after Buyer gives Seller a notice of the default.

20.2 Owner's Rights and Remedies. In the event of a Contractor Event of Default, Owner or its assignee shall have the following rights and remedies, in addition to any other rights and remedies that may be available to Owner or its assignee under this Contract and Applicable Laws, and Contractor shall have the following obligations:

(a) Owner may, without prejudice to any of its other rights or remedies, terminate this Contract;

(b) Owner may, without prejudice to any of its other rights or remedies, seek performance by any guarantor of Contractor's obligations hereunder or draw upon any applicable letter of credit, bond or other form of security provided in accordance with this Contract;

(c) If requested by Owner, Contractor shall withdraw from the Site, shall promptly assign to Owner (without recourse to Contractor) such of Contractor's subcontracts, purchase orders and Contractor Acquired Permits as Owner may request, and shall deliver and make available to Owner all information, documents, patents, and licenses of Contractor related to the Work and that is reasonably necessary to permit Owner to complete or cause the completion of the Work, and in connection therewith Contractor authorizes Owner and its agents to use such information in completing the Work, shall remove such materials, construction equipment, tools, and instruments used by and any debris or waste materials generated by Contractor in the performance of the Work as Owner may direct, and Owner may take possession of any or all Equipment, Drawings and Specifications, Required Manuals, and Site facilities, tools and construction equipment of Contractor related to the Work necessary for completion of the Work (whether or not such Drawings and Specifications, Required Manuals, and Site facilities are complete);

(d) Owner, without incurring any liability to Contractor, shall have the right (either with or without the use of Contractor's construction equipment) to have the Work finished whether by enforcing any security given by or for the benefit of Contractor for its performance under this Contract or otherwise, in which case Owner shall have the right to take possession of and use all construction equipment of Contractor necessary for completion of the Work, and Contractor shall have no right to remove such items from the Site until such completion;

(e) Owner may seek equitable or injunctive relief to cause Contractor to take action or to refrain from taking action pursuant to this Contract, or to make restitution of amounts improperly received under this Contract;

(f) Owner may seek damages as provided in Section 20.3, including proceeding against any bond, guarantee, letter of credit, or other security given by or for the benefit of Contractor for its performance under this Contract; and

(g) Owner may, but is not obligated to, make such payments or perform such obligations as are required to cure Contractor's Event of Default and offset the cost of such payment or performance against payments otherwise due to Contractor under this Contract.

20.3 Damages for Contractor Default. In the event of a Contractor Event of Default, and subject to Article 31, Contractor shall be liable to Owner for any and all actual damages to Owner as a result of such Contractor Event of Default, it being understood that, to the extent that the actual costs of completing the Work, including compensation for obtaining a replacement contractor or for obtaining additional professional services required as a consequence of Contractor's Event of Default, exceed those costs that would have been payable to Contractor but for Contractor's Event of Default, Contractor shall be obligated to pay the difference to Owner. In the event Owner's actual reasonable costs of completing the Work pursuant to the preceding sentence and the sum of all prior payments made to Contractor, plus any other amounts due to Owner from Contractor under the terms of this Contract, are less than the Contract Price, Owner shall pay the difference to Contractor. In addition, in the event of a Contractor Event of Default, Owner shall be entitled to withhold further payments to Contractor for the Work performed prior to termination of this Contract until Owner determines the liability of Contractor, if any, under this Section 20.3. Upon determination of the total cost to complete the Work, Owner shall give Notice to Contractor of the amount, if any, that Contractor shall pay Owner or Owner shall pay Contractor. Such payment hereunder shall be made within twenty-one (21) days after receipt of such Notice accompanied by reasonably satisfactory documentation substantiating the amounts payable. In addition, if, in the event of a Contractor Event of Default set forth in clause (i) of Section 20.1, Owner elects to terminate this Contract pursuant to Section 20.2(a) above, then Contractor shall (i) promptly pay to Owner all accrued and unpaid Delay Liquidated Damages (subject to Section 31.4(a)) and (ii) pay Performance Liquidated Damages as and when finally determined by the performance tests following completion of the Work by Owner and/or the replacement contractor (subject to the limitations in Sections 31.4(b) and (c)) less any Performance Liquidated Damages already paid, payment of all such liquidated damages, including any already paid, will be subject to the Maximum Aggregate Liquidated Damages, as liquidated damages (and not as a penalty) for such Contractor Event of Default and for Contractor's failure to proceed with or make adequate progress towards the completion of the Work as required by this Contract. Owner and Contractor agree that Owner's actual damages in the event of any Contractor Event of Default set forth in clause (i) of Section 20.1 would be extremely difficult or impracticable to determine and that, after negotiation, Owner and Contractor have agreed that the Maximum Aggregate Liquidated Damages are a reasonable estimate of the damages that Owner would incur as a result of such a Contractor Event of Default.

20.4 Owner Event of Default. Owner shall be in default of its obligations pursuant to this Contract in the event Owner fails to pay any undisputed amount of money to Contractor in accordance with this Contract and such failure continues for thirty (30) days after Owner receives a Notice from Contractor with respect thereto (“Owner Event of Default”).

20.5 Contractor’s Remedies. In the event of an Owner Event of Default, and subject to Article 31, Contractor shall have all rights and remedies that may be available under Applicable Laws against Owner with respect to this Contract, including the right to suspend performance of the Work or to terminate this Contract.

21. EARLY TERMINATION

21.1 General. Owner may in its sole discretion terminate the Work with or without cause at any time by giving Notice of termination to Contractor, to be effective upon the receipt of such Notice by Contractor or upon such other termination date specifically identified by Owner therein. For the avoidance of doubt, Owner may affirmatively provide notice to Contractor pursuant to the notice provisions of Article 30 that Owner will not issue a Notice to Proceed, and in such event, except as expressly provided in Section 8.1, Contractor shall not receive compensation for the Work performed through such date. Subject to the preceding sentence, and subject to Section 8.1, if Owner terminates the Work without cause or for any cause other than a Contractor Event of Default specified in Section 20.1, then Owner and Contractor shall have the following rights, obligations and duties:

(a) After Notice to Proceed Has Been Delivered and After the Target Notice to Proceed Date. Subject to Section 8.1, if Owner provides a Notice to Proceed, and if this Contract is terminated by Owner after the Target Notice to Proceed Date, then Contractor shall receive as compensation for the Work performed through the effective date of termination, Contractor’s actual, demonstrable and reasonable costs for Work performed and not previously paid by Owner, plus reasonable overhead, plus Subcontractors’ cancellation charges in connection with such termination (as limited by Section 21.1(c)), and demobilization costs.

(b) Adjustment for Overpayment and/or Defects. Notwithstanding the foregoing, the amount owed pursuant to Section 21.1(a) shall be subject to adjustment to the extent of any overpayment by Owner and/or any Work contains uncorrected Defects and provided, further, that Contractor shall use its reasonable efforts to minimize costs that arise between the date of its receipt of a Notice of termination and the effective date thereof, including, without limitation, by promptly notifying each Subcontractor of such termination; and

(c) Assumption of Contractor’s Contracts. Upon early termination pursuant to this Article 21, Owner shall have the right, at its sole option, to assume and become liable for any reasonable obligations that Contractor may have in good faith incurred for its Site personnel and for any reasonable written obligations and commitments that Contractor may have in good faith undertaken with third parties in connection with the

Work to be performed at the Site, which obligations and commitments shall not have been covered by the payments made to Contractor under Section 21.1(a). If Owner elects to assume any obligation of Contractor as described in this Section 21.1(c), then, as a condition precedent to Owner's compliance with any provision of this Article 21, Contractor shall execute all papers and take all other reasonable steps requested by Owner which may be required to vest in Owner all rights, set-offs, benefits and titles necessary to such assumption by Owner of such obligations described in this Article 21. Owner shall simultaneously provide to Contractor indemnities against liabilities thereafter arising under the assumed obligations or commitments.

21.2 Claims for Payment. All claims for payment by Contractor under this Article 21 must be made within thirty (30) Business Days after the effective date of a termination hereunder. Owner shall make payments under this Article 21 in accordance with Article 7.

21.3 Termination Payments. The payments described in Section 21.1(a) include payment for: (a) all costs of Equipment, temporary equipment, materials, labor, transportation, engineering, design and other services relating to Contractor's performance of its obligations under this Contract and the Work (including any intellectual property rights licensed under this Contract) provided by Contractor or any Subcontractor; (b) all national, state, regional and local taxes, and other Sales Taxes effective or enacted as of the date of execution of this Contract or thereafter, each as imposed on Contractor or any Subcontractor or the Work; (c) all other taxes, duties, levies, imposts, fees, or charges of any kind (whether in the United States or elsewhere) arising out of Contractor's or any such Subcontractor's performance of the Work, including any increases thereof that may occur during the term of this Contract; and (d) any duties, levies, imposts, fees, charges, and royalties imposed on Contractor or any Subcontractor with respect to any such Equipment, materials, labor, or services provided under this Contract. The taxes covered hereby include occupational, excise, unemployment, ownership, value-added, gross receipts, and income taxes and any and all other taxes and duties on any item or service that is part of the Work, whether such tax is normally included in the price of such item or service or is normally stated separately, all of which shall be for the account of Contractor. The above-described payments shall not be increased with respect to any of the foregoing or with respect to any withholdings in respect of any of the foregoing items that Owner may be required to make.

22. SUSPENSION

22.1 General. If at any time Owner, in its sole discretion, elects to suspend performance of the Work, Owner may suspend performance of the Work by giving Notice to Contractor. Such suspension shall commence and continue for the period specified in the suspension Notice. The Contract Price shall be adjusted as provided in clauses (a), (b), (c) and (d) of Section 22.2 to reflect any additional increased costs of Contractor resulting from any such suspension, as demonstrated by Contractor to Owner's reasonable satisfaction. No adjustment shall be made to the extent that performance is suspended, delayed, or interrupted for any cause due to Contractor's negligence, willful misconduct, or material noncompliance with the terms of this

Contract. At any time after the effective date of the suspension, Owner may require Contractor to resume performance of the Work upon five (5) days' Notice. Owner may require that Contractor cease any unsafe practice or task at any time. In the event Contractor fails to promptly correct any violation of safety or health regulation, or to correct any unsafe practice identified by Owner, Owner may suspend all or any part of the Work. Contractor shall not be entitled to any extension of time or reimbursement for costs caused by any such suspension order.

22.2 Contractor's Termination and Compensation Rights. If, at the end of the specified suspension period, Owner has not requested a resumption of the Work or has not notified Contractor of any extension of the suspension period (but in no event beyond 180 consecutive days or 270 days in the aggregate for all such suspensions, other than suspensions for any reason due to Contractor's negligence, willful misconduct, or material noncompliance with the terms of this Contract, at Contractor's option, the Work shall be deemed terminated as of the commencement date of the suspension period, and Owner shall pay Contractor for the Work performed pursuant to Section 21.1(b). In addition, in the event of any such suspension, Owner shall pay Contractor within thirty (30) days after receipt of Contractor's invoice for those costs incurred during the suspension period that are documented by Contractor to the reasonable satisfaction of Owner, to the extent attributable to the suspension, and that are:

- (a) For the purpose of safeguarding and/or storing the Work and the materials and Equipment at the point of fabrication, in transit, or at the Site;
- (b) For personnel, Subcontractor or rented equipment, the payments for which, with Owner's prior written concurrence, are continued during the suspension period;
- (c) For reasonable costs of demobilization and remobilization; and/or
- (d) For rescheduling the Work (including penalties or additional payments to any Subcontractor for the same); and
- (e) For cancellation fees or other actual costs or penalties associated with suspending or canceling subcontracts or purchase agreements.

The Project Schedule and the Progress Payment Schedule shall be adjusted to account for same.

22.3 Extension of Time. In the case of any suspension under this Article 22, other than from a cause due to Contractor's negligence, willful misconduct, or material noncompliance with the terms of this Contract, the Project Guaranteed Date shall be extended by a period equal to the suspension period, plus a reasonable period for demobilization and remobilization approved by Owner, and the Project Schedule, the Project Guaranteed Date, and the Progress Payment Schedule shall be adjusted to account for same.

22.4 Claims for Payment. All claims by Contractor for compensation or extension of time under this Article 22 must be made within thirty (30) days after the suspension period has ended and the Work has been either terminated or resumed. Failure of Contractor to make a claim within said period shall be deemed a waiver by Contractor of any such claims.

23. INSURANCE

23.1 General.

(a) Contractor's Insurance. Contractor, at its own expense, shall procure or cause to be procured and maintain or cause to be maintained in full force and effect at all times commencing no later than upon commencement of the Work at the Site and until the expiration of the Warranty Period, all insurance coverages specified in Exhibit V-1 (except that the Ocean Marine Cargo and Builder's All Risk insurance coverages shall be maintained in full force and effect until the Project Substantial Completion Date). All insurance coverage shall be in accordance with the terms of this Article 23, Exhibit V-1 and V-3, using insurance companies, to the extent required by Applicable Law, authorized to do business in Utah. All policies required shall be written on an "occurrence" basis (except for workers' compensation and professional liability).

(b) Owner's Insurance. Owner, at its own expense, shall procure or cause to be procured and maintain or cause to be maintained in full force and effect at all times during the period commencing on the Notice to Proceed Date through the Warranty Period, all insurance coverages specified in Exhibit V-2. All insurance coverages shall be in accordance with this Article 23, Exhibits V-2 and V-3, using companies, to the extent required by Applicable Law, authorized to do business in Utah.

(c) Non-Violation. Contractor shall not knowingly violate nor knowingly permit to be violated any conditions of the policies provided by Owner under the terms of this Contract and shall at all times satisfy the requirements of the insurance companies issuing them. All requirements imposed by such policies and to be performed by Contractor shall likewise be imposed upon and assumed by each Subcontractor.

23.2 Subrogation Waivers. Contractor insurance policies shall provide for a waiver of subrogation rights except for professional liability as specified in Exhibit V-3 against Owner, Affiliates and their respective assigns, subsidiaries, Affiliates, directors, officers, employees, insurers, and underwriters, and of any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy. Contractor releases, assigns, and waives any and all rights of recovery against Owner (except as specified in Section 24.1), Affiliates, and their respective assigns, subsidiaries, Affiliates, directors, officers, employees, insurers, and underwriters, that Contractor may otherwise have or acquire in or from or in any way connected with any loss covered by policies of insurance maintained or required to be maintained by Contractor pursuant to this Contract or because of deductible clauses in or inadequacy of limits of any such policies of

insurance. Owner shall provide for a waiver of subrogation rights under Owner's property coverage.

23.3 Evidence of Insurance. Evidence of insurance required hereunder, in the form of certificates of insurance and copies of the Builder's All Risk and Ocean Marine Cargo forms of policies and endorsements as specified in Exhibit V-3, certified by such Party's insurance brokers, shall be furnished by each when required to be delivered no later than the date on which coverage is required to be in effect pursuant to Exhibit V, as applicable. Copies of the Builder's All Risk insurance policy and Ocean Marine Cargo insurance policy shall be provided to Owner for its review and approval and which approval shall not be unreasonably withheld. Should Owner be named in any lawsuit or threatened with litigation for a claim under a policy of insurance provided by Contractor to which Owner is an additional insured, then if requested by Owner, copies of such insurance policy shall be made available to the Owner for review in Contractor's corporate office. Such policies may be edited to exclude confidential information to Contractor. Contractor's automobile liability, commercial general liability and excess liability will provide a severability of interests or cross-liability clause applying to liability policies; provided, however, that the insurance shall be primary and not excess to or contributing with any insurance or self-insurance maintained by Owner and Contractor and contain a provision that the policies may not be canceled or changed except: (a) as provided in Exhibit V; or (b) if not therein provided, without thirty (30) days' or, in the case of nonpayment of premium, ten (10) days' prior written Notice given by certified mail to Owner and Contractor. Not later than the one-year anniversary of the date of delivery of the policies of insurance hereunder or the expiration date of the policy if for a term of more than one year, and not later than each one-year anniversary or policy renewal date thereafter, each Party shall deliver copies of the renewal certificates or insurance policies certified as aforesaid.

23.4 Insurance Coverages. All amounts of insurance coverage under this Contract specified in Exhibit V are required amounts. Owner and Contractor shall each be solely responsible for determining the appropriate amount of insurance, if any, in excess thereof. The required amounts of insurance shall not operate as limits on recoveries available under this Contract.

23.5 Failure to Maintain Insurance. If at any time the insurance to be provided by Owner or Contractor hereunder shall be reduced or cease to be maintained, then (without limiting the rights of the other Party hereunder in respect of any default that arises as a result of such failure) the other Party may at its option (following notice to the responsible Party), procure and maintain the insurance required hereby, but subject to Section 23.6, and, in such event; (a) Owner may withhold the cost of insurance premiums expended for such replacement insurance from any payments to Contractor (provided copies of such replacement policies of insurance are provided to the responsible Party); or (b) Owner shall reimburse Contractor for the premium of any such replacement insurance, as applicable.

23.6 Scope of Coverage. Contractor shall require such auto liability, commercial general liability and workers' compensation/employer's liability insurance of

Subcontractors who perform services at the Site as shall be reasonable and in accordance with Industry Standards in relation to the Work or other items being provided by each such Subcontractor. Each Subcontractor shall be required to provide evidence of insurance prior to performing any Work at site, and Contractor shall provide such evidence of insurance to Owner, upon Owner's request.

24. RISK OF LOSS OR DAMAGE

24.1 Contractor Assumption of Risk. From the Notice to Proceed Date to perform the Work until the Substantial Completion Date, Contractor assumes risk of loss and full responsibility for the cost of replacing or repairing the damage to the Project except amounts above normal and customary sublimits for natural catastrophes (including flood and earthquake) and all materials, Equipment, supplies and maintenance equipment (including temporary materials, equipment and supplies) which are purchased by Contractor or Owner (from the time such Owner-purchased equipment arrives on Site) for permanent installation in or for use during construction of the Project regardless of whether Owner has title thereto under this Contract, unless such loss or damage is a result of the negligence or intentional misconduct of Owner or Owner's agents during such time as such agents are acting under Owner's control, in which case Owner shall be responsible for the amount of any deductible amounts under applicable policies as identified in Exhibit V. Owner shall bear this risk and responsibility after the Substantial Completion Date except (i) to the extent any such loss or damage occurs during the performance of, and as a result of, work being performed by Contractor or any Subcontractor or (ii) to the extent such loss or damage results from the negligence or intentional misconduct of Contractor or any Subcontractor, including any of their employees or agents, in either of which events Contractor's responsibility for such loss or damage shall not exceed seven million five hundred dollars (\$7,500,000) each occurrence. Owner agrees to waive rights of recovery (and shall cause its operational property insurers to waive all rights of recovery) against Contractor and its Subcontractors for property damage to the Project or Plant after Substantial Completion in excess of the operational property deductible. If any portion of the Work is lost or damaged, then Contractor shall replace or repair any such loss or damage and complete the Work in accordance with this Contract.

24.2. Loss or Damage; Limitations. If any portion of the Project is lost or damaged, then Contractor shall replace or repair any such loss or damage and complete the Work in accordance with this Contract. If any portion of the Plant (other than Project) is lost or damaged in connection with the performance of Work by Contractor or any of its Subcontractors prior to the earlier of termination of the Contract and the Substantial Completion Date, then Contractor shall liable therefor up to a maximum amount of (i) [_____] Dollars (\$[_____]) per occurrence payable from insurance proceeds from Contractor's Builder's All Risk and (ii) [_____] Dollars (\$[_____]) per occurrence/aggregate payable from insurance proceeds from Commercial General liability and Excess Liability insurance policies as maintained in accordance with Article 23 and Exhibits V-1 and V-3.

25. INDEMNIFICATION

25.1 By Owner. Except for matters expressly made Contractor's responsibility hereunder or otherwise expressly limited as set forth in this Contract, Owner shall defend, indemnify, and hold harmless Contractor, its Subcontractors, and all their respective employees, Affiliates, agents, officers, partners, and directors (collectively, the "Contractor Indemnitees") from and against all third party claims, or Losses for bodily injury or property damage, to the extent caused by the negligence of Owner or its agents.

25.2. By Contractor. Except for matters expressly made Owner's responsibility hereunder, Contractor shall defend, indemnify, and hold harmless Owner, and any Person acting for or on behalf of Owner and their respective employees, agents, partners, Affiliates, shareholders, directors, officers, and assigns (collectively, the "Owner Indemnitees"), from and against all third party claims or Losses for bodily injury or tangible property damage:

(a) to the extent caused by the negligent prosecution of the Work by Contractor (including its Subcontractors) or any negligent acts or omissions of Contractor, its agents, servants, employees, any acts or omission of agents, servants or employees of any Subcontractor;

(b) that arise out of or result from the failure of Contractor or Subcontractor to comply with Applicable Laws or the conditions or provisions of Applicable Permits, but only to the extent Owner has paid fines or penalties imposed by a Governmental Authority; or

(c) that arise out of any insurance policy procured under Article 23 being vitiated as a result of Contractor's failure to comply with any of the requirements set forth in such policy or any other act by Contractor or any Subcontractor.

(d) arise out of or result from Contractor's failure to comply with its obligations under this Contract with respect to Hazardous Materials; or

(e) arise from any other breach by Contractor of its representations, warranties and obligations (including any other indemnification provision) under this Contract.

25.3. Actions by Government Authorities. Contractor shall defend, indemnify, and hold Owner and its respective employees, agents, partners, Affiliates, shareholders, directors, officers, and assigns harmless from and against all claims by any Governmental Authority presenting a claim for Taxes due that are Contractor's responsibility pursuant to Section 6.2, including taxes based on gross receipts or on income of Contractor, any of its Subcontractors, or any of their respective agents or employees with respect to any payment made to or earned by Contractor, any of its Subcontractors, or any of their respective agents or employees for the Work under this Contract.

25.4. Notice; Defense; Settlement. An indemnitee under this Article 25 or any other indemnification provision set forth in this Contract shall, within ten (10) Business Days after the receipt of written notice of the commencement of any legal action or of any claims against such indemnitee in respect of which indemnification will be sought,

notify the indemnitor with a written notice thereof. Failure of the indemnitee to give such written notice will reduce the liability of the indemnitor by the amount of damages attributable to the failure of the indemnitee to give such written notice to the indemnitor, but the failure so to notify shall not relieve the indemnitor from any liability that it may have to such indemnitee otherwise than under the indemnity agreements contained in this Contract. In case any such claim or legal action shall be made or brought against an indemnitee and such indemnitee shall notify the indemnitor thereof, the indemnitor may, or if so requested by such indemnitee shall, assume the defense thereof. After written notice from the indemnitor to such indemnitee of an election to assume the defense thereof and approval by the indemnitee of counsel selected by the indemnitor which approval shall not be unreasonably withheld, the indemnitor will not be liable to such indemnitee under this Article 25 for any legal fees or expenses subsequently incurred by such indemnitee in connection with the defense thereof so long as the indemnitor continues to provide such defense in a diligent and timely manner. No indemnitee shall settle any indemnified claim over which the indemnitor has not been afforded the opportunity to assume the defense without the indemnitor's written approval. The indemnitor shall control the settlement of all claims over which it has assumed the defense; provided, however, that the indemnitor shall not conclude any settlement that requires any action or forbearance from action by the indemnitee or any of its Affiliates without the prior written approval of the indemnitee. The indemnitee shall provide reasonable assistance to the indemnitor, in connection with such legal action or claim. If the indemnitor assumes the defense of any such claim or legal action, any indemnitee shall have the right to employ separate counsel in such claim or legal action and participate therein, and the reasonable fees and expenses of such counsel shall be at the expense of such indemnitee, except that such fees and expenses shall be for the account of the indemnitor if: (a) the employment of such counsel has been specifically authorized by the indemnitor; or (b) the named parties to such action (including any impleaded parties) include both such indemnitee and the indemnitor and representation of such indemnitee and the indemnitor by the same counsel would, in the reasonable opinion of the indemnitee, be inappropriate under applicable standards of professional conduct due to actual or potential conflicting interests between them. Notwithstanding anything to the contrary in this Section 25.4, the indemnitee shall have the right, at its expense, to retain counsel to monitor and consult with indemnitor's counsel in connection with any such legal action or claim.

26. INTELLECTUAL PROPERTY AND OTHER INDEMNIFICATION RIGHTS

26.1 Indemnity by Contractor. Contractor shall defend, indemnify, and hold harmless Owner, Affiliates and their respective employees, partners, directors, officers and assigns against all Losses arising from any claim or legal action for unauthorized disclosure or use of any trade secrets, or of patent, copyright, or trademark infringement arising from Contractor's performance (or that of its Affiliates or Subcontractors) under this Contract or otherwise asserted against Owner: (a) concerns any Equipment, materials, supplies, or other items provided by Contractor, any of its Affiliates, or any Subcontractor under this Contract; (b) is based upon or arises out of the performance of the Work by Contractor, any of its Affiliates, or any Subcontractor, including the use of

any tools or other implements of construction by Contractor, any of its Affiliates, or any Subcontractor; (c) is based upon or arises out of the design or construction of any item by Contractor or any Subcontractor under this Contract or the operation of any item according to directions embodied in the final process design, or any revision thereof, prepared or approved by Contractor or any Subcontractor; or (d) affects the Owner's ability to operate the Project.

26.2 Lawsuits. If such claim or legal action for such infringement results in a suit against Owner, the provisions of Section 25.4 shall apply.

26.3 Injunction. If Owner is enjoined from completion of the Project or any part thereof, or from the use, operation, or enjoyment of the Project or any part thereof, as a result of such claim or legal action or any litigation based thereon, Contractor shall promptly use its best efforts to have such injunction removed at no cost to Owner. If any such claim, suit or proceeding, the Project or any part, combination or process thereof is held to constitute an infringement and its use is permanently enjoined, Contractor shall at its own expense and without impairing performance requirements, either replace the infringing Work or part, combination or process thereof with non-infringing components or parts or modify the same so that they become non-infringing. If Contractor is unable to do so within a reasonable time, Contractor promptly shall use its best efforts to secure for Owner a license, at no cost to Owner, authorizing continued use of the infringing Work.

26.4 Effect of Owner's Actions. Owner's acceptance of Contractor Deliverables or proposed or supplied materials and Equipment shall not be construed to relieve Contractor of any obligation hereunder; provided, however, and notwithstanding anything herein to the contrary, Contractor shall have no liability due to operation of the Work not in accordance with Contractor's instructions.

26.5 [Reserved.]

26.6. Patents and Proprietary Licenses. Contractor further agrees to grant and hereby grants to Owner an irrevocable, non-exclusive, royalty-free license under all patents and other proprietary information of Contractor related to the Work now or hereafter owned or controlled by Contractor to the extent reasonably necessary for the operation, maintenance or repair of the Project or any subsystem or component thereof designed, specified, or constructed by Contractor under this Contract. No other license in such patents and proprietary information is granted pursuant to this Contract.

26.7. General Lien Indemnity. Contractor shall indemnify and hold harmless Owner and its Affiliates (collectively, the "Lien Indemnitees") and defend each of them from and against any and all Losses arising out of any and all claims for payment, whether or not reduced to a lien or mechanic's lien, filed by Contractor or any Subcontractor performing any portion of the Work, including reasonable attorneys' fees and expenses incurred by any Lien Indemnitee in discharging any such liens or similar encumbrances. If Contractor shall fail to discharge promptly any such lien or claim for payment filed against the Project or the Plant or any interest therein, upon any materials, Equipment, or structures encompassed therein, or upon the premises upon which they are

located, the Plant, the Site and/or premises upon which they are located, any Lien Indemnitee may so notify Contractor in writing, and Contractor shall then: (a) satisfy all such liens and claim (including, for example, bonding around such lien); or (b) defend Lien Indemnitees against all such liens or claims and provide assurances of payment as described in the next to last sentence of this Article 26. If Contractor does not satisfy such liens or claims for payment within ten (10) days from the Lien Indemnitees' Notice, give such Lien Indemnitee reasons in writing that are satisfactory to such Lien Indemnitee for not causing the release of such liens or paying such claims, or contest such liens or claims in accordance with the provisions of the next to last sentence of this Article 26, any Lien Indemnitee shall have the right, at its option, after written notification to Contractor, to cause the release of, pay, or settle such liens or claims, and Owner at its sole option may: (y) require Contractor to pay, within five (5) days after request by Owner; or (z) offset against any Retainage or other amounts due or to become due to Contractor (in which case Owner shall, if it is not the applicable Lien Indemnitee, pay such amounts directly to the Lien Indemnitee causing the release, payment, or settlement of such liens or claims) all actual costs and expenses incurred by the Lien Indemnitee in causing the release of, paying, or settling such liens or claims, including administrative costs, attorneys' fees, and other expenses. Contractor shall have the right to contest any such lien; provided it first provides to Owner a bond or other assurances of payment reasonably satisfactory to Owner in the amount of such lien and in form and substance reasonably satisfactory to Owner. Notwithstanding any provision in this Contract to the contrary, nothing herein shall affect Contractor's right to file or otherwise place a lien on the Project, Site, and/or the Work (including a mechanic's lien) as a result of the non-payment by Owner of any undisputed amount owing to Contractor hereunder.

27. TREATMENT OF CONFIDENTIAL INFORMATION

27.1 Confidential Information.

(a) Any Confidential Information is disclosed in confidence, and the transferee shall restrict its use of such information solely to uses related to the Project or performance of this Contract. Neither the transferee nor any consultant, Subcontractor or other Person engaged by transferee to whom any confidential or proprietary information is provided in connection with the Project or performance of this Contract shall publish or otherwise disclose such information to others or use such information for any purpose except as expressly provided above without the written approval of the transferor. Notwithstanding the foregoing, or any other provision of this Article 27, this Contract shall not limit (i) the right of either Party to supply such information to any Governmental Authority asserting a right to such information, or as may be required by Applicable Law, or (ii) the right of either Party to reproduce and/or use as many copies of any information or documents provided to the other Party as that Party in its sole discretion considers useful or necessary for the furtherance of the Work, regardless of any notices, legends, or disclaimers on such information or documents.

(b) Notwithstanding the designation of any information as proprietary or confidential by a transferor, such information shall not be deemed Confidential Information if it: (a) was furnished by such Party prior to the execution of this Contract

without restrictions; (b) becomes knowledge available within the public domain; (c) is received by either Party from a third party without restriction and without breach of this Contract; or (d) is or becomes generally available to, or is independently known to or has been or is developed by, either Party or any of its Affiliates other than solely as a result of any disclosure of such information by the transferor to the transferee.

(c) No right or license is granted to Contractor or any third party respecting the use of Confidential Information by virtue of this Contract. Contractor shall deliver the Owner Confidential Information, including all copies thereof, to Owner upon request.

27.2 Critical Infrastructure Information. Notwithstanding the foregoing or any other provisions of this Agreement, Confidential Information of Owner labeled as CII shall be protected consistent with the following requirements: (a) CII shall be protected at all times, either by appropriate storage or having it under the personal observation and control of a person authorized to receive it; (b) each person who works with protected CII is personally responsible for taking proper precautions to ensure that unauthorized persons do not gain access to it; (c) reasonable steps shall be taken to minimize the risks of access to CII by unauthorized personnel (when not in use, CII shall be secured in a secure container, such as a locked desk, file cabinet or facility where security is provided); (d) documents or material containing CII may be reproduced to the minimum extent necessary, consistent with the need to carry out the Work, provided that the reproduced material is marked and protected in the same manner as the original material; (e) material containing CII should be disposed of through secured shredding receptacles or other secured document destruction methods; (f) CII shall be transmitted only by the following means: (i) hand delivery; (ii) United States first class, express, certified or registered mail, bonded courier, or through secure electronic means; (iii) e-mail with encrypted file (such as, WinZip with password) (the password should not be included in e-mail, but should be delivered by phone or in an unrelated e-mail not mentioning the document name; password-protected Microsoft Office documents do not meet the encryption requirements); and (g) documents or material containing CII shall be returned to Owner or certified destroyed upon completion of the Work.

28. ASSIGNMENT

28.1. ASSIGNMENT BY OWNER. WITHOUT THE PRIOR CONSENT OF CONTRACTOR, OWNER MAY, UPON REASONABLE ADVANCE NOTICE, ASSIGN ALL OR PART OF ITS RIGHT, TITLE, AND INTEREST IN THIS CONTRACT OR THE WORK TO ANY AFFILIATE; PROVIDED HOWEVER, OWNER SHALL REMAIN RESPONSIBLE FOR ALL OBLIGATIONS UNDER THIS CONTRACT NOTWITHSTANDING SUCH ASSIGNMENT OR TRANSFER. IN ADDITION, OWNER MAY ASSIGN ALL OR PART OF ITS RIGHT, TITLE, AND INTEREST IN THIS CONTRACT TO ANY OTHER PERSON WITH COMPARABLE CREDITWORTHINESS AND FINANCIAL SECURITY AND STABILITY WITH THE PRIOR WRITTEN APPROVAL OF CONTRACTOR, WHICH APPROVAL SHALL NOT BE UNREASONABLY WITHHELD; AND UPON SUCH ASSIGNMENT THE OWNER SHALL BE RELIEVED OF ALL OF ITS OBLIGATIONS

HEREUNDER. CONTRACTOR AGREES THAT, UPON RECEIPT OF NOTICE OF SUCH ASSIGNMENT, IT SHALL DELIVER ALL DOCUMENTS, DATA, NOTICES, AND OTHER COMMUNICATIONS REQUIRED TO BE DELIVERED TO OWNER HEREUNDER TO OTHER PERMITTED ASSIGNEE AT SUCH ADDRESS AS THEY SHALL DESIGNATE TO CONTRACTOR IN WRITING.

28.2. Assignment by Contractor. Contractor understands that this Contract is personal to Contractor. Contractor shall have no right, power, or authority to assign or delegate this Contract or any portion thereof, either voluntarily or involuntarily, or by operation of law. Contractor's attempted assignment or delegation of any of its work hereunder shall be null and void and shall be ineffective to relieve Contractor of its responsibility for the work assigned or delegated.

29. INDEPENDENT CONTRACTOR

29.1 General. Contractor is an independent contractor. Nothing contained herein shall be construed as constituting any relationship between Owner and Contractor other than that of owner and independent contractor, or as creating any relationship whatsoever between Owner and Contractor's employees, or as creating any relationship between Owner and Subcontractors. Neither Contractor nor any of its employees is or shall be deemed to be an employee of Owner.

29.2 Employees. Subject to Section 4.3, Section 4.18 and Section 10.1, Contractor has sole authority and responsibility to employ, discharge, and otherwise control its employees and each Subcontractor.

30. NOTICES AND COMMUNICATIONS

30.1 Requirements. Any Notice pursuant to the terms and conditions of this Contract shall be in writing and: (a) delivered personally, (b) sent by certified mail, return receipt requested, (c) sent by a recognized overnight mail or courier service, with delivery receipt requested, or (d) sent by confirmed facsimile transmission with telephonic confirmation, to the following addresses:

If to Contractor:		
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With a copy to:		
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If to Owner:		Vice President Resource Development & Construction PacifiCorp Energy 1407 West North Temple, Room 210 Salt Lake City, UT 84116 Facsimile: (801) 220-4676
With a copy to:		Vice President and General Counsel, PacifiCorp Energy 1407 West North Temple, Room 320 Salt Lake City, UT 84116 Facsimile: (801) 220-4615

30.2 Effective Time. Notices shall be effective when received by the other Party.

30.3 Representatives. Any technical or other communications pertaining to the Work shall be with the Parties' designated representative. Each Party shall notify the other in writing of the name of such representatives. The Project Manager shall be satisfactory to Owner, the Owner's Project Representative shall be satisfactory to Contractor, and each shall have knowledge of the Work and be available at all reasonable times for consultation. Each Party's representative shall be authorized on behalf of such Party to administer this Contract, agree upon procedures for coordinating the efforts of Owner and Contractor, and, when appropriate, to furnish information to or receive information from the other Party in matters concerning the Work.

31. LIMITATIONS OF LIABILITY AND REMEDIES

31.1 Limitations on Damages. EXCEPT FOR THE LIQUIDATED DAMAGES, AND NOTWITHSTANDING ANYTHING ELSE IN THIS CONTRACT TO THE CONTRARY, NEITHER PARTY NOR ITS AFFILIATES OR SUBCONTRACTORS SHALL BE LIABLE TO THE OTHER, AND EACH PARTY HEREBY WAIVES AND RELEASES THE OTHER PARTY AND ITS SUBCONTRACTORS AND AFFILIATES FROM AND AGAINST ALL CLAIMS, FOR ANY INDIRECT, PUNITIVE, CONSEQUENTIAL OR SPECIAL DAMAGES, WHETHER FORESEEN OR NOT, ARISING OUT OF OR IN CONNECTION WITH THIS CONTRACT, WHETHER SUCH LIABILITY ARISES IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), STATUTORY OR OTHERWISE. SUCH DAMAGES INCLUDE, WITHOUT LIMITATION, LOSS OF PROFITS, REVENUE, OPPORTUNITY, INTEREST, USE OF PROPERTY OR CAPITAL, OR DIMINUTION OF VALUE, BUSINESS OR REPUTATION, LOSSES ON OTHER PROJECTS, LOSSES OF FINANCING OR FINANCING COSTS. THIS CLAUSE SURVIVES TERMINATION OR EXPIRATION OF THIS CONTRACT. FOR THE AVOIDANCE OF DOUBT, TO THE EXTENT ONE PARTY IS ENTITLED TO INDEMNIFICATION FROM THE OTHER FOR THIRD PARTY CLAIMS IN ARTICLE 25, ARTICLE 26, OR ANY OTHER PROVISION IN THIS CONTRACT IMPOSING INDEMNIFICATION OBLIGATIONS, ANY DAMAGES AWARDED TO SUCH THIRD PARTY (DIRECT, CONSEQUENTIAL OR OTHERWISE) SHALL BE FOR THE PURPOSES OF SECTION 31.1 DEEMED TO BE DIRECT DAMAGES OF THE INDEMNIFIED PARTY FOR WHICH THE INDEMNIFYING PARTY SHALL BE LIABLE.

31.2. Parent Guaranty and Letters of Credit. All of Contractor's obligations under this Contract shall be secured by the Parent Guaranty. Contractor shall deliver the Parent Guaranty (duly executed by the party thereto) contemporaneously with Contractor's execution of this Contract. In addition, all of Contractor's obligations under this Contract shall be secured by an Acceptable Letter of Credit (the "Performance LOC") issued for the benefit of Owner in an amount equal to (i) five percent (5%) of the Contract Price. Contractor shall deliver such Performance LOC within two hundred seventy (270) days after and the Notice to Proceed Date and such delivery shall be a condition precedent to Owner's further obligations hereunder. Subject to Section 34.10, the Performance LOC shall remain in full force and effect through Substantial Completion.

31.3. Limitations on Contractor's Liability. In no event shall Contractor's liability pursuant to this Contract, whether arising in contract, warranty, default or otherwise, be greater in the aggregate than an amount equal to one hundred percent (100%) of the Contract Price; provided, however, that nothing contained in this Section 31.3 or in any other provision of this Contract shall be construed to limit Contractor's liabilities for its obligations: (a) with respect to maintenance, termination, cancellation or non-renewal (or other loss of coverage) of any insurance policy required by Article 23; (b) with respect to any fraud or willful misconduct on the part of Contractor; (c) with respect to any of Contractor's indemnity obligations for third party Losses under Articles 25 or 26 or any other provision in this Contract; or (d) liabilities of Contractor to Owner

covered by insurance carried by Contractor pursuant to Article 23 of this Contract or by Owner (except deductibles paid by Contractor).

31.4. Maximum Liquidated Damages Amounts.

(a) The amount of Delay Liquidated Damages payable pursuant to Section 16.2 shall not exceed, in the aggregate, an amount equal to fifteen percent (15 %) of the Contract Price.

(b) The amount of Performance Liquidated Damages payable by Contractor attributable to failure to meet the Guaranteed Net Capacity and Guaranteed Incremental Net Capacity pursuant to Section 16.3 shall not exceed, in the aggregate, an amount equal to fifteen percent (15%) of the Contract Price.

(c) The amount of Performance Liquidated Damages payable by Contractor attributable to failure to meet the Guaranteed Net Heat Rate and Guaranteed Incremental Net Heat Rate pursuant to Section 16.3 shall not exceed, in the aggregate, an amount equal to twentypercent (20%) of the Contract Price.

(d) The amount of Start-up Liquidated Damages payable pursuant to Section 16.4 shall not exceed, in the aggregate, an amount equal to \$1,000,000.

(e) The amount of Availability Liquidated Damages payable pursuant to Section 16.5 shall not exceed \$15,000,000.

The amount of liquidated damages under subsections (a) through (e) of this Section 31.4 shall not exceed, in the aggregate, an amount equal to thirty percent (30 %) of the Contract Price (the "Maximum Aggregate Liquidated Damages").

31.5. Certain Remedies Exclusive. To the extent a remedy is not expressly set forth in this Contract for a breach of an obligation arising under this Contract, the Parties shall have any remedy available under the governing law of contracts.

32. DISPUTES

32.1 Negotiations. Any disputes arising pursuant to this Contract that cannot be resolved between Owner's Project Representative and Contractor's Project Manager within fourteen (14) days after receipt by each of Notice of such dispute (specifically referencing this Section 32.1) shall be referred, by Notice signed by Owner's Project Representative and Contractor's Project Manager, to the executive level officers of each entity comprising Owner and Contractor as their designated representatives (which shall not be the Owner's Project Representative or Contractor's Project Manager) for resolution. If Owner and Contractor, negotiating in good faith, fail to reach an agreement within a reasonable period of time, not exceeding twenty (20) days after such referral, then Owner and Contractor agree that any and all disputes arising from, relating to or in connection with this Contract, whether based in contract, tort or otherwise shall be submitted to the jurisdiction of the federal or state courts located in Salt Lake County, Utah, to the exclusion of any and all other courts, forums, venues, and the Parties waive

any and all right to contest the exclusivity of such forum, including any rights based upon the doctrine of forum non conveniens. The court shall award to the substantially prevailing Party all of its costs, expenses, attorneys' fees, filing fees and court costs.

32.2. Work to Continue. Unless otherwise agreed in writing, Owner shall continue its payment obligations for Work and amounts not in dispute and Contractor shall diligently carry on the Work and shall not interfere with, restrict or discourage the prompt completion of any portion of the Work, the correction of any Defects or the provision of any warranty service during the pendency of any dispute proceedings. If it shall be determined, either by agreement of the Parties or through dispute resolution, that any payment of the Contract Price or any other amount payable to Contractor hereunder shall have been unduly paid by Owner to Contractor, Contractor shall promptly refund the amount of such excess payment together with interest thereon at the lesser of the Prime Rate and the highest rate permitted by Applicable Law, from the day following the date of such payment until the date of full refund to Owner. If it shall be determined, either by agreement of the Parties or through dispute resolution, that any payment of the Contract Price or other amount payable to Contractor hereunder shall have been unduly withheld by Owner, Owner shall pay or cause to be paid to Contractor within thirty (30) days after the final arbitration decision is made, such withheld amount, together with interest thereon at the lesser of the Prime Rate and the highest rate permitted by Applicable Law, from the day following the date on which such payment is determined to have been unduly withheld (as so determined) until the date of payment in full to Contractor.

32.3. Injunctive Relief. Nothing herein shall preclude a Party from seeking injunctive relief to the extent such relief is available under Applicable Laws.

33. NORTH AMERICAN ELECTRICAL RELIABILITY CORPORATION CRITICAL INFRASTRUCTURE STANDARDS/COMPLIANCE REQUIREMENTS

33.1 Requirements for Unescorted Personnel and Sensitive Personnel

In the event that the Work requires: (i) authorized unescorted physical access to Owner's Facilities (i.e., use of Unescorted Personnel); or (ii) authorized unescorted physical access or authorized cyber access to Owner's CIPS Covered Assets (i.e., use of Sensitive Personnel), for all Personnel who require such access, Contractor shall:

(a) Ensure that Unescorted Personnel and Sensitive Personnel have passed the background checks outlined in Section 33.3(a) consistent with the Owner's Criteria set forth on Exhibit X prior to requesting unescorted physical access and/or cyber access to Owner's Facilities and/or Owner's CIPS Covered Assets, as applicable;

(b) Ensure that Unescorted Personnel and Sensitive Personnel complete Owner provided or approved initial CIPS compliance training prior to requesting unescorted physical access and/or cyber access to Owner's Facilities and/or Owner's CIPS Covered Assets, as applicable;

(c) Ensure that Unescorted Personnel and Sensitive Personnel have passed Contractor's drug and alcohol exam and are in compliance with Contractor's substance abuse/drug and alcohol policy as outlined in Section 33.5; and

(d) Keep accurate and detailed documentation to confirm completion dates for background checks, all CIPS compliance training (initial and annual training, to the extent applicable), and drug tests, and certify to Owner such documentation by completing a Contractor/Vendor Information Form, attached as Exhibit X hereto, for each Unescorted Personnel or Sensitive Personnel.

Contractor shall not allow any Unescorted Personnel or Sensitive Personnel who have not met the foregoing requirements of this Section 33.1 to perform Work, unless Contractor has received prior written consent from Owner.

33.2 Additional Access Requirements Specific to Sensitive Personnel

In addition to the access requirements outlined in Section 33.1, with respect to all Sensitive Personnel, Contractor also shall:

(a) Ensure that Sensitive Personnel (and any Personnel with access to CII) are informed of and comply with Owner's CII requirements contained in any confidentiality agreement previously executed by Contractor as well as the CII requirements set forth herein;

(b) In addition to the initial CIPS compliance training requirement outlined in Section 33.1(b), ensure that Sensitive Personnel complete Owner provided or approved CIPS compliance training within Owner's prescribed training window, and not less than on an annual basis; and

(c) Immediately report both (i) Sensitive Personnel terminations for cause and (ii) all other Sensitive Personnel terminations or changes in employment status for those who no longer require access, to the Owner's Technology Resource Center (TRC). The TRC is available by calling either (503) 813-5555 or (801) 220-5555.

Contractor shall not allow any Sensitive Personnel who have not met the foregoing requirements of this Section 33.2 to perform Work, unless Contractor has received prior written consent from Owner.

33.3 Personnel Screening/Background Check Requirements for Unescorted Personnel and Sensitive Personnel

For all Unescorted Personnel or Sensitive Personnel, the following requirements must be met by Contractor:

(a) Contractor shall conduct, at Contractor's cost and expense, the requisite background checks for the current and past countries of residence of all Unescorted Personnel and Sensitive Personnel consistent with the Owner's Criteria set forth on Exhibit X. All background checks will be conducted in accordance with federal, state,

provincial, and local laws, and subject to existing collective bargaining unit agreements or other agreements, if any.

(b) Following the initial background check to obtain authorization for access, the background checks shall be updated no less frequently than every seven (7) years or upon request by Owner, and shall, at a minimum, consist of a social security number identity verification and seven-year criminal background check, including all convictions for a crime punishable by imprisonment for a term exceeding one year.

(c) Contractor shall ensure that each of the Unescorted Personnel and Sensitive Personnel sign an appropriate authorization form prior to background checks being conducted, acknowledging that the background check is being conducted, and authorizing the information obtained to be provided to Owner.

(d) Owner has the right to audit Contractor's records supporting each Contractor/Vendor Information Form, attached as Exhibit X, submitted to Owner, including background check results, and to verify that the requisite background checks and drug tests were performed consistent with Owner's Criteria, set forth on Exhibit X. Contractor shall provide Owner with all requested records supporting Contractor/Vendor Information Forms within a reasonable time after receiving such request, and in the form requested by Owner, but not longer than three (3) business days following the date of such request.

(e) For purposes of this Contract, a background check is considered valid pursuant to the Owner's Criteria, set forth on Exhibit X, if it was completed within two (2) years prior to the date on which Contractor signed a Contractor/Vendor Information Form for each Unescorted Personnel and Sensitive Personnel. Regardless of when performed, all background checks shall be documented pursuant to the requirements set forth in this Section 33.3.

(f) In the event Owner notifies Contractor of the impending expiration of the background check of any Unescorted Personnel or Sensitive Personnel, Contractor shall provide an updated Contractor/Vendor Information Form reflecting a refreshed background check within twenty (20) days of receipt of the Notice, in order to avoid revocation of such person's access.

33.4 Contractor Designee

Contractor shall designate one person to be responsible for compliance with the requirements of Sections 33.1 through 33.4, and all reporting and inquiries (other than Sensitive Personnel terminations or changes in employment status) shall be made via e-mail to CIPS-Contracting@PacifiCorp.com. Sensitive Personnel terminations or changes in employment status should be reported to the TRC pursuant to Section 33.2(c).

33.5 Drug Testing

(a) Contractor shall have and ensure compliance with a substance abuse/drug and alcohol policy that complies with all applicable federal, state and/or local statutes or

regulations. Contractor shall subject each of the Personnel to a drug test at Contractor's sole cost and expense. Such drug test shall, at a minimum, be a five (5) Panel Drug Test, which should be recognizable at testing labs as a "SamHSA5 panel at 50NG – THC cut-off".

(b) For any Personnel who have had a recent drug test, such recent drug test shall be documented pursuant to the previous sections of this Article 33. Contractor warrants that Contractor and the Personnel are in compliance with Contractor's substance abuse/drug and alcohol policy.

(c) During the course of Work performed under this Contract, Contractor shall keep accurate and detailed documentation of its drug policy and Personnel drug tests, which it shall submit to Owner upon request.

(d) Contractor shall designate one person to be responsible for compliance with the requirements of this Section 33.5 and all reporting and inquiries shall be made to a duly authorized representative of Owner in a timely manner.

33.6 Department of Transportation Compliance

Contractor shall ensure Department of Transportation compliance, including but not limited to valid driver's license, equipment inspections, hours of service and all appropriate documentation for any Personnel who may drive while on assignment to Owner.

34. MISCELLANEOUS

34.1. Severability. The invalidity or unenforceability of any portion or provision of this Contract shall in no way affect the validity or enforceability of any other portion or provision hereof. Any invalid or unenforceable portion or provision shall be deemed severed from this Contract and the balance of this Contract shall be construed and enforced as if this Contract did not contain such invalid or unenforceable portion or provision. If any such provision of this Contract is so declared invalid, the Parties shall promptly negotiate in good faith new provisions to eliminate such invalidity and to restore this Contract as near as possible to its original intent and effect.

34.2. Governing Law. All provisions of this Contract that are expressly by their terms or by implication to come into or continue in force and effect after the expiration or termination of this Contract shall survive the expiration or earlier termination of this Contract; provided that the foregoing enumeration shall not be interpreted to bar survival of any other provision hereof which would otherwise be deemed to survive by operation of law. This Contract shall be interpreted in accordance with the substantive and procedural laws of the State of Utah.

34.3. Survival of Termination. All provisions of this Contract that are expressly by their terms or by implication to come into or to continue in force and effect after the expiration or termination of this Contract shall survive the expiration or earlier termination of this Contract; provided that the foregoing enumeration shall not be

interpreted to bar survival of any other provision hereof which would otherwise be deemed to survive by operation of law.

34.4. No Oral Modification. No oral or written amendment or modification of this Contract by any officer, agent, or employee of Contractor or Owner, either before or after execution of this Contract, shall be of any force or effect unless such amendment or modification is in writing and is signed by an authorized signatory of the executing Party.

34.5. No Waiver. Either Party's waiver of any breach or failure to enforce any of the terms, covenants, conditions, or other provisions of this Contract at any time shall not in any way affect, limit, modify, or waive that Party's right thereafter to enforce or compel strict compliance with every term, covenant, condition, or other provision hereof, any course of dealing or custom of the trade notwithstanding. All waivers must be in writing and signed on behalf of Owner and Contractor by the individuals identified in Section 34.4.

34.6. Time of Essence. Time is of the essence in the performance by Contractor of its obligations as set forth in this Contract; provided, however, that this Contract shall not be terminated with respect to Contractor for delay in its performance except as provided herein.

34.7. Contract Interest Rate. Overdue payment obligations of Owner and Contractor hereunder shall bear interest from the date due until the date paid at a rate per annum equal to the lesser of: (a) the Prime Rate; or (b) the highest rate permitted by Applicable Laws.

34.8. Headings for Convenience Only. The headings contained herein are not part of this Contract and are included solely for the convenience of the Parties.

34.9. Third Party Beneficiaries. The provisions of this Contract are intended for the sole benefit of Owner and Contractor and there are no third party beneficiaries hereof.

34.10. Letters of Credit. Contractor is required to provide the Warranty LOC in accordance with Section 7.6, the Performance LOC pursuant to Section 31.2, and may in lieu of Retainage provide the Retainage LOC in accordance with Section 7.5. Upon achieving Substantial Completion, the Retainage LOC (if provided) shall remain in full force and effect until Final Completion; provided that the amount of the Retainage or the amount of the Retainage LOC (if provided) may be reduced to 200% of the agreed value of the Punchlist Items upon achieving Substantial Completion as such value is determined in accordance with Section 15.1(g) plus the amount of Liquidated Damages, if any, Owner reasonably expects to be incurred following the Substantial Completion Date. The Warranty LOC shall be issued as a condition to Substantial Completion in accordance with Section 15.1(c), and such Warranty LOC shall remain in full force and effect during the Warranty Period as described in Section 7.6(c).

34.11. Failure to Renew Letter of Credit. A Party shall be in breach of this Contract if such Party has not provided and maintained any guarantee or letter of credit as required by this Contract or as may be provided in the Parent Guaranty and upon such

Party's failure to so provide and maintain in accordance with the terms of this Contract, the Party to whom the letter of credit was issued shall have the right to draw down the entire amount of such letter of credit (provided, however, that in the event such breach is a result of failure to satisfy a Credit Rating requirement which in turn triggers a requirement to provide a letter of credit, then the Party shall have thirty (30) days from the date of such change in credit rating to provide the required letter of credit). A Party shall be in breach of this Contract if such Party has not renewed or replaced a letter of credit required to be provided hereunder no later than twenty-one (21) days prior to the stated expiration date for, or required renewal or replacement of, such letter of credit; and upon such Party's failure to so renew or replace the Party to whom the letter of credit was issued shall have the right to draw down the entire amount of such letter of credit.

34.12. Further Assurances. Owner and Contractor will each use its best efforts to implement the provisions of this Contract, and for such purpose each, at the request of the other, will, without further consideration, promptly execute and deliver or cause to be executed and delivered to the other such assistance, or assignments, consents or other instruments in addition to those required by this Contract, in form and substance reasonably satisfactory to the other, as the other may reasonably deem necessary or desirable to implement any provision of this Contract. Additionally, in the event that either Party has reasonable cause to suspect that the other Party's ability to perform its respective obligations under this Contract has been substantially impaired, the impaired Party shall upon request, provide the requesting Party with reasonably adequate assurance of its intention and ability to continue its performance as required by this Contract.

34.13. Record Retention. Contractor agrees to retain for a period of three (3) years from the Final Completion Date all records relating to its performance of the Work or Contractor's warranty obligations herein, and to cause each Subcontractor engaged in connection with the Work or the performance by Contractor of its warranty obligations herein to retain for the same period all their records relating to the Work.

34.14. Binding on Successors. Subject to Article 28, this Contract shall be binding on the Parties hereto and on their respective successors, heirs and assigns.

34.15. Merger of Prior Contracts. This Contract supersedes the bid process and any other agreement, whether written or oral, that may have been made or entered into between Owner and Contractor or by any officer or officers of such Parties relating to the Project or the Work. This Contract and the Exhibits hereto, which form a part of this Contract, constitute the entire agreement between the Parties with respect to this Project, and there are no other agreements or commitments with respect to this Project, except as set forth herein.

34.16. Construction of Terms. Unless the context clearly intends to the contrary, words singular or plural in number shall be deemed to include the other and pronouns having a masculine or feminine gender shall be deemed to include the other. Unless otherwise stated or defined herein, words which have well known technical or construction industry meanings are used in this Contract in accordance with such recognized meanings.

34.17. Counterpart Execution. This Contract may be executed by the Parties hereto in any number of counterparts (and by each of the Parties hereto on separate counterparts), each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

34.18. Set-Off. Either Party may at any time, but shall be under no obligation to, set off any and all sums due from the other Party against sums due to such Party hereunder or otherwise due and owing in connection with any other transaction or contractual relationship between the Parties.

34.19. Drafting Interpretations. Preparation of this Contract has been a joint effort of the Parties and the resulting documents shall not be construed more severely against one of the Parties than against the other.

34.20. Financial Information. Upon written request from Owner, Contractor agrees from time to time to provide Owner its audited financial statements as of the most recent fiscal year end,; provided that if a Parental Guaranty is being provided, audited financial statements for the most recent fiscal year end of Parent Guarantor are to be provided. All financial statements are to be prepared in accordance with generally accepted accounting principles.

[Signature page follows]

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be executed as of the date and the year first above written.

OWNER:

PACIFICORP, an Oregon corporation

By:

—

Title:

—

CONTRACTOR:

_____,
a [_____] [corporation]

By:

—

Title:

—

GUARANTY

This GUARANTY (“Guaranty”) is made as of the ___ day of _____, 20, by _____ (“Guarantor”), to and for the benefit of **PACIFICORP**, an Oregon corporation having a principal office at 825 N.E. Multnomah, Suite 2000, Portland, OR 97232 (“Beneficiary”), with reference to the following.

WHEREAS, _____ (“Obligor”), and is wholly owned, directly or indirectly, by Guarantor; and

WHEREAS, Obligor and Beneficiary have entered into the Contract dated as of Month, Date, Year (the “Contract”); and

WHEREAS, to induce Beneficiary to enter into the Contract, Guarantor executes and delivers to Beneficiary this Guaranty;

NOW, THEREFORE, for and in consideration of the foregoing premises, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Guarantor covenants and agrees as follows:

1. Definitions. Unless otherwise defined herein, all capitalized terms used herein which are defined in the Contract shall have their respective meanings as therein defined. All references to the Contract contained herein shall be construed to mean the Contract as amended from time to time. Unless otherwise required by the context in which any term appears in this Guaranty: (a) the singular shall include the plural and vice versa; (b) the words “herein,” “hereof” and “hereunder” shall refer to this Guaranty as a whole and not to any particular sections or subsections hereof; (c) the words “including” or “includes” shall be construed to mean “without limitation” or “but not limited to” and (d) the word “or” is not necessarily exclusive.

2. Guaranty. Guarantor hereby absolutely, irrevocably and unconditionally guarantees to Beneficiary, its successors and permitted assigns the full and prompt payment and performance when due of all of Obligor's warranties, covenants, indebtedness, duties and agreements contained in the Contract including, but not limited to, payment obligations under the Contract. All obligations, representations, warranties, covenants, indebtedness, duties and agreements described above are collectively referred to herein as the “Obligations”. If at any time Obligor fails, neglects or refuses to timely or fully perform any of the Obligations as expressly provided in the terms and conditions of the Contract, and if within ten (10) days after written notice of such failure and the expiration of any grace period applicable with respect thereto under the Contract (provided that Beneficiary may provide such notice prior to the expiration of any such grace period), Obligor has not, in the case of the failure to perform a payment obligation under the Contract, made such payment in full or, in the case of a failure to perform any other of the Obligations, commenced and diligently pursued corrective action to the extent required by the Contract, then upon receipt of written notice from Beneficiary

specifying the failure, Guarantor shall promptly pay or perform, or cause to be paid or performed, any such Obligation as required pursuant to the terms and conditions of the Contract, including without limitation all payment obligations under the Contract. Notwithstanding anything set forth to the contrary herein, with respect to any claim, action or proceeding against Guarantor in connection with this Guaranty, Guarantor shall be entitled to assert those rights, remedies and defenses which Obligor would be able to assert if such claim, action or proceeding were to be asserted or instituted against Obligor based upon the Contract including, but not limited to, any limitations of liability set forth in the Contract, but provided that in no event shall Guarantor be entitled to assert any defenses that arise by operation of law on account of an Event of Bankruptcy or the bankruptcy or insolvency of the Obligor. Guarantor agrees that this Guaranty is a guaranty of performance including, but not limited to, payment, and not merely a guaranty of collection and shall apply regardless of whether recovery of any or all of the Obligations may be or become discharged or uncollectible in Event of Bankruptcy (as defined below) in which Obligor is the debtor. All payments hereunder shall be made without reduction, whether by set-off or otherwise.

3. Unconditional Guaranty. The obligations of Guarantor hereunder are independent, absolute and unconditional, irrespective of any genuineness, validity, regularity or enforceability of the Obligations and irrespective of any genuineness, validity, regularity or enforceability of the Contract, or any substitution, release or exchange of any other guarantee of or security for any of the Obligations, and, to the fullest extent permitted by applicable law, irrespective of any other circumstance whatsoever which might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor. Without limiting the generality of the foregoing, the occurrence of any one or more of the following shall not affect the liability of Guarantor hereunder:

- (a) at any time or from time to time, without notice to Guarantor, the time for any performance of or compliance with any of the Obligations shall be extended, or such performance or compliance shall be waived;
- (b) any acts or omissions by Obligor with respect to the Obligations;
- (c) any of the Obligations shall be modified, supplemented or amended in any respect, or any right with respect to the Obligations shall be waived or any other guaranty of any of the Obligations or any security therefore shall be released or exchanged in whole or in part or otherwise dealt with;
- (d) any lien or security interest granted to, or in favor of, Beneficiary as security for any of the Obligations shall fail to be valid or perfected;
- (e) the voluntary or involuntary liquidation, dissolution, sale or other disposition of the assets and liabilities, or the voluntary or involuntary receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization or other similar proceeding affecting Obligor, or rejection of the

Contract in any such proceeding, or any action taken by any trustee or receiver in connection therewith (an “Event of Bankruptcy”);

(f) any lack of authorization, in whole or in part, of the Obligations or any term or provision hereof or of the Contract for any reason, or the rejection or purported rejection thereof in any Event of Bankruptcy;

(g) whether Beneficiary shall have taken or failed to have taken any steps to collect or enforce any obligation or liability from Obligor or shall have taken any actions to mitigate its damages;

(h) whether Beneficiary shall have taken or failed to have taken any steps to collect or enforce any guaranty of or to proceed against any security for any Obligation;

(i) any applicable law which might in any manner cause or permit to be invoked any alteration in the time, amount or manner of payment or performance of any of the Obligations or the obligations of Guarantor hereunder;

(j) any merger or consolidation of Obligor or Guarantor into or with any other person or any sale, lease or transfer of all or any of the assets of Obligor or Guarantor to any other person;

(k) any change in the ownership of any of the voting securities of Obligor or Guarantor;

(l) to the extent as may be waived by applicable law, the benefit of all principles or provisions of laws, rules and regulations which may be in conflict with the terms hereof; or

(m) any failure on the part of Guarantor to comply with any applicable law.

4. Subordination of Subrogation Rights. Guarantor hereby subordinates to all claims, rights and remedies that Beneficiary or any of Beneficiary's permitted assigns may have against Obligor any claim, right or remedy that Guarantor may now have or hereafter acquire against Obligor that arises hereunder or in connection herewith, including any claim, remedy or right of subrogation, reimbursement, indemnity, exoneration, contribution or participation in any claim, remedy or right against Obligor that arises in connection herewith, whether or not such claim, right or remedy arises in equity, under contract, by statute, under common law or otherwise until the Obligations have been paid and performed in full. If any amount shall erroneously be paid to Guarantor on account of such subrogation, reimbursement, indemnity, exoneration, contribution, and similar rights, such amount shall be held in trust for the benefit of Beneficiary and shall forthwith be paid to Beneficiary to be credited against the payment of the Obligations, whether matured or unmatured.

5. Remedies. Guarantor agrees that the Obligations shall be due and payable for purposes of this Guaranty notwithstanding any stay, injunction or other prohibition preventing a declaration of payment as against Obligor.

6. Certain Waivers. Guarantor hereby unconditionally and irrevocably waives, to the extent permitted by applicable law, (i) notice of any of the matters referred to in Section 3 hereof; (ii) all notices which may be required by applicable law or otherwise, now or hereafter in effect, to preserve any rights against Guarantor hereunder, including, any demand, proof or notice of non-payment of the Obligations except as otherwise required by Section 2 hereof; and (iii) acceptance of this Guaranty, demand, protest, promptness, diligence, presentment, notice of default or dishonor and any requirement of diligence, notice of intent to accelerate, notice of acceleration and notice of the incurring of the Obligations. Guarantor hereby waives: (a) any right to assert against Beneficiary any defense (legal or equitable), counterclaim, set-off, crossclaim or other claim that Guarantor may now or at any time hereafter have (i) against Obligor or (ii) acquired from any other party to which Beneficiary may be liable;; (b) 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 and (c) any right to require Beneficiary to marshal, or have recourse to other collateral or surety, before exercising its rights hereunder.

7. Separate Enforcement. The obligations of Guarantor under this Guaranty are independent of and may be enforced separately from the Obligations, in a separate action or actions that may be brought and prosecuted against Guarantor whether or not action is brought against Obligor. Guarantor agrees that payment or performance of any of the Obligations or other acts which toll any statute of limitations applicable to the Obligations or the Contract shall also toll the statute of limitations applicable to Guarantor's liability under this Guaranty.

8. Representations and Warranties. Guarantor additionally represents and warrants to Beneficiary as follows:

(a) Guarantor is a corporation duly organized, validly existing, authorized to do business and in good standing under the laws of the State of its formation.

(b) Guarantor has the requisite corporate power and authority to own its property and assets, transact the business in which it is engaged and to enter into this Guaranty and carry out its obligations hereunder. The execution, delivery, and performance of this Guaranty have been duly and validly authorized and no other corporate proceedings on the part of Guarantor or its affiliates are necessary to authorize this Guaranty or the transactions contemplated hereby.

(c) No authorization or approval or other action by, and no notice to or filing with, any governmental authority or other regulatory body or third party is

required for the due execution, delivery and performance by Guarantor of this Guaranty.

(d) This Guaranty, when executed, shall constitute a valid and binding agreement of Guarantor and is enforceable against Guarantor in accordance with the terms of this Guaranty, except as may be limited by bankruptcy or insolvency or by other laws affecting the rights of creditors generally and except as may be limited by the availability of equitable remedies, and except to the extent that the execution of this Guaranty was induced by fraud, misrepresentation, or fraudulent concealment by or on behalf of the Beneficiary.

(e) As of the date hereof, the execution, delivery, and performance of this Guaranty does not and will not (i) result in a default, breach or violation of the certificate or articles of incorporation or bylaws of Guarantor, or (ii) constitute an event which would permit any person or entity to terminate rights or accelerate the performance or maturity of any indebtedness or obligation of Guarantor, the effect of which would materially affect Guarantor's ability to meet its obligations under this Guaranty, (iii) constitute an event which would require any consent of a third party or under any agreement to which Guarantor is bound, the absence of which consent would materially and adversely affect Guarantor's ability to meet its obligations under this Guaranty, or (iv) result in any default, breach or violation of any license, permit, franchise, judgment, writ, injunction, decree, order, charter, law, ordinance, rule or regulation applicable to Guarantor and which default, breach or violation would materially and adversely affect Guarantor's ability to meet its obligations under this Guaranty.

9. Amendments. No amendment of any provision of this Guaranty shall be effective unless it is in writing and signed by Guarantor, Beneficiary and any permitted assignee of Beneficiary's rights hereunder, and no waiver of any provision of this Guaranty, and no consent to any departure by Guarantor therefrom, shall be effective unless it is in writing and signed by Beneficiary or any permitted assignee of Beneficiary's rights hereunder. No delay on the part of Beneficiary in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any waiver or any partial exercise of any such right, power or privilege preclude any further exercise thereof or the exercise of any other such right, power or privilege. No waiver of any breach, term or condition of this Guaranty by Beneficiary shall constitute a subsequent waiver of the same or any other breach, term or condition. No notice to or demand on Guarantor shall entitle Guarantor to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of Beneficiary to any other or further action in any circumstances without notice or demand. The rights and remedies herein expressly provided are cumulative and not exclusive of any rights or remedies which Beneficiary would otherwise have.

10. Continuing Guaranty; Successor and Assigns. This Guaranty is a continuing guaranty and (i) shall apply to all Obligations whenever arising, (ii) shall remain in full force and effect until satisfaction in full of all of the Obligations, (iii) shall be binding

upon Guarantor and its successors and permitted assigns and (iii) shall inure to the benefit of and be enforceable by Beneficiary and its successors, and assigns permitted under the Contract. Notwithstanding the foregoing, however, Guarantor may not assign all or any portion of its rights or delegate all or any portion of its duties under this Guaranty without the prior written consent of Beneficiary. Any assignment by Guarantor without the foregoing consent shall be void.

11. Reinstatement. In the event that Beneficiary for any reason (including but not limited to bankruptcy preferences or alleged fraudulent transfers), is required to repay or disgorge any amounts received by it in respect of the Obligations, then the liability of Guarantor under this Guaranty, with respect to such amounts, shall be reinstated.

12. Governing Law. This Guaranty shall be governed by and construed in accordance with the laws of the state of New York, excluding rules governing conflicts of laws. Guarantor hereby submits, and by its acceptance hereof Beneficiary hereby submits, to the jurisdiction of the courts of the state of New York and to federal courts located within the city of New York

13. WAIVER OF JURY TRIAL. GUARANTOR AND BENEFICIARY HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHT OF TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN CONNECTION WITH THIS GUARANTY OR THE AGREEMENT TO WHICH THEY ARE A PARTY OR ANY MATTER ARISING HEREUNDER OR THEREUNDER.

14. Notices. Any notices or other communication to be given hereunder shall be given in writing, sent by (a) personal delivery, (b) internationally recognized expedited delivery service, (c) registered or certified United States mail, postage prepaid, or (d) facsimile (followed by registered or certified United States mail, postage prepaid) as follows:

To Guarantor:

To Beneficiary: PacifiCorp
825 NE Multnomah, Suite 700
Portland, OR 97232
Attention: Credit Manager
Phone No.: (503) 813-5684
Fax No.: (503) 813-5609

With a copy to: PacifiCorp Legal Department
825 N.E. Multnomah, Suite 600
Portland, OR 97232
Telefacsimile: (503) 813-6260 and (925) 943-3105

Attention: Jeff Erb, Esq. and Jeremy Weinstein, Esq.

or to such other address or to the attention of such other individual as hereafter shall be designated in writing by the applicable party sent in accordance herewith. Any such notice or communication shall be deemed to have been given either at the time of personal delivery or, in the case of delivery service or mail, as of the date of receipt at the address and in the manner provided herein, or in the case of facsimile, upon receipt.

15. Severability. In the event that any of the provisions, or portions or applications thereof, of this Guaranty are held to be unenforceable or invalid by any court of competent jurisdiction, Beneficiary and Guarantor shall negotiate an equitable adjustment in such provisions of this Guaranty with a view toward effecting the purpose of this Guaranty, and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby.

16. Duty to Keep Informed. Guarantor assumes the responsibility for being and keeping itself informed of the financial condition of Obligor until the termination of all of the Obligations, and of all other circumstances bearing upon the risk of nonpayment or default under the Obligations which diligent inquiry would reveal, and agrees that Beneficiary shall have no duty to advise Guarantor of information known to it regarding such condition or any such circumstances.

17. Entire Agreement. This Guaranty contains the entire agreement and understanding of Guarantor and Beneficiary with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether written or oral, of Guarantor and Beneficiary relating to the subject matter hereof. Any oral or written representation, warranty, course of dealing or trade usage not contained or referenced herein shall not be binding on either Guarantor or Beneficiary.

18. No Third Party Beneficiaries. The provisions of this Guaranty shall only be for the benefit of, and enforceable by, Beneficiary and its permitted assigns and shall not inure to the benefit of or be enforceable by any other person or entity.

19. Further Assurances. Guarantor and Beneficiary shall each, at the request of the other, execute and deliver or cause to be executed and delivered such documents and instruments not otherwise specified herein, and take or cause to be taken all such other reasonable actions, as may be necessary or desirable to more fully and effectively carry out the intent and purposes of this Guaranty.

20. Counterparts. This Guaranty may be executed in two or more separate counterparts (including by facsimile transmission), each of which shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

21. Captions. The captions contained in this Guaranty are for convenience and reference only and in no way define, describe extend or limit the scope or intent of this Guaranty or the intent of any provision contained herein.

22. Confidentiality. Beneficiary shall not, without the prior written permission of Guarantor, disclose information relating to the financial condition of Guarantor provided by Guarantor (“Information”), to any third party other than those of Beneficiary’s attorneys and accountants who have need to know of such Information for the purposes of administering or enforcing this Guaranty. The duties of confidentiality of Beneficiary hereunder shall not apply to Information which Beneficiary can show is the same as information which: (i) is or becomes generally available to the public without breach of this confidentiality undertaking; (ii) was in the possession of Beneficiary at the time it was initially furnished by the Guarantor or Obligor free of any confidentiality restrictions; or (iii) is later received from an independent third party who is, as far as can reasonably be determined, under no limitation or restriction regarding disclosure of the Information. Notwithstanding the foregoing, the parties acknowledge that Beneficiary is required by law or regulation to report certain information that could embody Information from time to time. Such reports include models, filings, reports of Beneficiary’s net power costs, general rate case filings, power cost adjustment mechanisms, FERC-required reporting such as those made on FERC Form 1, Form 12, or Form 714, market power and market monitoring reports, annual state reports that include resources and loads, integrated resource planning reports, reports to entities such as the North American Electric Reliability Council, Western Electricity Coordinating Council, Pacific Northwest Utility Coordinating Committee, Western Regional Generation Information System, or similar or successor organizations, or similar or successor forms, filings, or reports, the specific names of which may vary by jurisdiction, along with supporting documentation. Additionally, in regulatory proceedings in all state and federal jurisdictions in which it does business, Beneficiary will from time to time be required to produce Information. Beneficiary may use its business judgment in its compliance with all of the foregoing and the appropriate level of confidentiality it seeks for such disclosures. Beneficiary may submit Information in regulatory proceedings without notice to Guarantor if Beneficiary has obtained in such proceedings a protective order covering such Information.

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, has executed this Guaranty as of the date first written above.

Accepted:
PACIFICORP

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

APPENDIX A
ABBREVIATIONS

ABBREVIATIONS

ac	alternating current
AGC	automatic generation control
ARMA	Air and Radiation Management Administration
ASCE	American Society of Civil Engineers
ASME	American Society of Mechanical Engineers
Btu	British thermal unit
°C	degree Centigrade
CEMS	continuous emissions monitoring system
CO	carbon monoxide
CO ₂	carbon dioxide
CPCN	Certificate of Public Convenience and Necessity
CRT	cathode ray tube
GT	gas turbine
CTG	gas turbine-generator
dBa	decibel
dc	direct current
DCS	distributed control system
DNR	Department of Natural Resources
EAF	equivalent availability factor
EPC	engineering/procurement/construction
EPA	Environmental Protection Agency (U.S. unless noted)
°F	degree Fahrenheit
FAA	Federal Aviation Administration
FERC	Federal Energy Regulatory Commission
gal	gallon
GNP	Gross National Product

gpd	gallons per day
gpm	gallons per minute
Hga	mercury absolute
HHV	higher heating value
HP	high pressure
hp	horsepower
hr	hour(s)
HRSG	heat recovery steam generator
HVAC	heating, ventilating and air conditioning
Hz	hertz
I&C	instrumentation and control
in	inch(es)
IP	intermediate pressure
ISO	International Standards Organization
kV	kilovolt(s)
kVA	kilovoltampere(s)
kW	kilowatt(s)
kWh	kilowatt-hour(s)
lb	pound(s)
lb/hr	pounds per hour
LHV	lower heating value
LNG	liquid natural gas
LP	low pressure
mA	milliampere(s)
MCC	motor control center
MCR	maximum continuous rating
mgd	million gallons per day
MMBtu	million British thermal units
MVA	megavoltampere
MW	megawatt(s)
MWa	megawatt(s)

MWe	megawatt(s) electrical
MWh	megawatt-hour
NO ₂	nitrogen dioxide
NEPA	National Environmental Policy Act
NFPA	National Fire Protection Association
NO _x	oxides of nitrogen
NSPS	new source performance standards
O ₂	oxygen
O&M	operation and maintenance
PCS	Parallel Condensing System
pf	power factor
PM	particulate matter
PM-10	particulate matter below 10 microns
ppm	parts per million
ppmvd	parts per million by volume, dry
PPRP	Power Plant Research Program
PSC	Public Service Commission
PSD	Prevention of Significant Deterioration
psi	pounds per square inch
psia	pounds per square inch absolute
psig	pounds per square inch gauge
PURPA	Public Utility Regulatory Policy Act
QF	qualifying facility
RH	relative humidity
rpm	revolutions per minute
scf	standard cubic feet
SCR	selective catalytic reduction
sf	square foot
SO ₂	sulfur dioxide
STG	steam turbine-generator

TSP total suspended particulates

UL Underwriters Laboratory

UPS uninterruptible power supply

V volt

VAR volt ampere reactive

VOC volatile organic compounds

EXHIBIT B
Progress Payment and Cancellation Schedules

1.0 Progress Payment Form

Contractor shall submit to Owner for approval a completed Schedule of Values (SOV) in accordance with the requirements of Section 3 of Exhibit B. Each Progress Payment shall be consistent with the expenditure schedule below and will include those SOV Items as determined in accordance with Exhibit B. Each Progress Payments will be supported by the information required by Exhibit K, Form of Monthly Progress Report. Contractor will demonstrate progress to the Owner’s satisfaction. The submission shall clearly identify the expected invoice amount after including the impact of retainage.

	Progress Payment Schedule		
	Maximum Incremental Progress Payment Amount	Invoiced Amount	Maximum Cumulative Progress Payment Amount
Invoice Date (Monthly)	\$	\$	\$

Total EPC Contract		\$	\$

Owner is not obligated to make any Progress Payment unless and until the SOV is completed in accordance with Exhibit B, Section 3.0, and approved by Owner.

Notes:

Progress Payments shall be made for completion of SOV Items consistent with the requirements set forth in Exhibit B, 3.0 and the Contract. Progress Payment for any particular month will be the dollar value of completed SOV Items during such month but shall in no event exceed the Maximum Cumulative Progress Payment Amount.

2.0 Cancellation Schedule

Cancellation Date	Upon Owner's Termination under Article 21 of the Contract, the Maximum Cumulative Payment Payable as Percentage of the Contract Price.	Upon Owner's Termination under Article 21 of the Contract, the Maximum Cumulative Payment Amount Payable
	(%)	(Dollars)

3.0 Schedule of Values

1.0 General

- (a) Each Progress Payment shall consist of the sum of Dollar amounts associated with completion of a Schedule of Value (SOV) Item prior to submittal of Contractor's Invoice.

- (b) In no event shall the cumulative amount paid for all Progress Payments made by Owner exceed the amounts shown in the Maximum. Cumulative Progress Payment Amount column set forth in Section 1.0 of Exhibit B.

- (c) The Progress Payments to Contractor shall be based on actual completion of SOV Items shown in Contractor's approved Schedule of Values.

- (d) All SOV Items included in a Progress Payment shall be supported with suitable documentation so that Owner can evaluate progress and completion of the SOV Item.

2.0 Schedule of Values

- (a) The Progress Payment Schedule shall include a complete and detailed Schedule of Values consisting of a detailed list of SOV Items and associated Dollar values to be completed by Contractor during the period.
- (b) The sum of the Dollar amounts for SOV Items shall equal the Contract Price.

3.0 SOV Items

- (a) SOV Items consist of measurable and verifiable events or portions of the Work as further described in this Section 3.0 of Exhibit B.
- (b) SOV Items shall include Contractor Milestones as shown in Exhibit J and other events and activities as agreed to pursuant to this Exhibit.
- (c) Each SOV Item shall have a corresponding Dollar value. Completion of the SOV Item shall entitle Contractor to payment for that portion of the Work, subject to the other conditions of the Contract.
- (d) Dollar amounts associated with an SOV Item shall be representative of the cost or value of the Work completed for that SOV Item.
- (e) Work performed pursuant to a Change in Work shall be separately stated as SOV Items with associated Dollar amounts. Such Change in Work SOV Items shall follow the same requirements for SOV Items as stated in the Contract and this Exhibit B.
- (f) Guidelines for SOV Items include the following:
 - (A) SOV Items shall normally not include costs or value of both (a) material and equipment, and (b) installation cost of such material and equipment, in the same SOV Item.
 - (B) SOV Items may include commodities (e.g., completed foundations, structures erected, etc.) when such items (A) have been reasonably estimated for both cost and quantity as part of the development of the SOV, (B) have been provided with detailed commodity tracking tools acceptable to Owner, (C) can be reasonably measured by Owner to determine degree of completion, and (D) are regularly

and fully reported in the Monthly Progress Report. Dollar values for SOV Items involving commodities may include material and installation costs.

- (C) Overheads, margins, and other indirect costs should be included on a pro rata basis as part of the Dollar amount for an SOV Item.
- (D) During the early months, SOV Items should consist primarily of activities or events associated with engineering tasks. Examples include: Issue for Bid/Construction of drawings or specifications by discipline, system or type, placement of key purchase commitments with Subcontractors, etc.
- (E) SOV Items should consist primarily of activities or events associated with major on-going engineering tasks, issuance of purchase orders, receipt of Equipment from Subcontractor's, shipping or delivery of Equipment to Site, completion of installation of key elements of the Work, and completion of successful quality assurance checks.
- (F) SOV Items should be broken out by purchase commitments, systems, or other rational basis.
- (G) Examples of potential SOV Items include:
 - i. Issuance of purchase commitment for a significant Subcontractor or item of Equipment. (Each one a separate SOV Item.)
 - ii. Submittal/issue of vendor drawings.
 - iii. Approval of shop drawings for an item of Equipment or system.
 - iv. Partial payments for key items of Equipment at significant points in the fabrication process.
 - v. Delivery of Equipment or major portions of material to Site.
 - vi. Installation of equipment.
 - vii. Completion of buildings or structures.
 - viii. Completion of training.
 - ix. Turnover of systems with completed turnover packages.

- x. Completion of various tests required for Mechanical and Substantial Completion.
- xi. Securing of critical Contractor Acquired Permits.
- xii. Installation of commodities with predetermined valuation metrics for various stages of completion.
- xiii. Final release of Subcontractors from Site.
- xiv. Submittal of Punch list to Owner.
- xv. Final Completion and Acceptance.

4.0 Total and Option Price Schedule

Base Proposal

1. Engineering	\$ _____
2. Combustion Turbine Equipment	\$ _____
3. Steam Turbine Equipment	\$ _____
4. Heat Recovery Steam Generator Equipment	\$ _____
5. Air Cooled Condenser	\$ _____
6. Balance of Plant Equipment	\$ _____
7. Bulk Commodities	\$ _____
8. Direct Construction Labor	\$ _____
9. Subcontract Construction Labor	\$ _____
10. Field Indirect Costs	\$ _____
11. Project Management	\$ _____
12. Potable water line	\$ _____
13. Water Discharge Line	\$ _____
14. Lump Sum Total Price	\$ _____
15. Estimated Sales taxes (including deduct for pollution control equipment)	\$ _____

Options

A. Price for increasing both HRSG stack heights thirty feet (30'). \$ _____

<u>Total Project Price</u>	<u>Fixed Price</u>
i. Builder’s Risk insurance	\$ _____
ii. Warranty Letter of Credit	\$ _____
iii. Performance Letter of Credit	\$ _____
iv. Sales Taxes.....	not included – see below
Total Cost without options above	\$ _____¹

<u>Pollution Control Equipment Taxes</u>	<u>Estimated Price</u>
xii. Taxes associated with pollution control equipment (Sales tax of PCE is based on \$ _____)	\$ _____
Footnote 1 – This amount should match the total of the Progress Payment Amounts in section 1 above.	
x. Sales Taxes (not included in price)	\$ _____
(estimated)	

EXHIBIT C
Change in Work Form

Change Order No.: _____ Date Issued: _____

Description (Attach Appropriate Documentation): _____

Cost of Change:

Non-Manual Labor Man-hours Cost: _____

Non-Manual Labor Expenses: _____

Manual Labor Man-hours Cost: _____

Material Cost: _____

Subcontracts Cost: _____

Mobilization/Demobilization Cost: _____

Equipment Cost: _____

Other Cost (if any) _____

Mark-up (Profit and Overhead): _____

Total Cost of Change: _____

Impact on Project Guarantee Dates: _____

Impact on Critical Path Schedule: _____

Impact on Progress Payment Schedule: _____

Impact on the Warranties: _____

Anticipated Differences in the Costs of O & M Following Substantial Completion: _____

Other Impacts on Contract: _____

Revised Contract Amount (Including Change): _____

Owner Approval:

Contractor Approval:

By: _____ Date _____ By: _____ Date: _____

Distribution: Owner:

Contractor:



Utah State Tax Commission
210 N 1950 W • SLC, UT 84134 • www.tax.utah.gov

**Instructions for Filing Refund Claims for
Sales Tax Paid on Pollution Control Facilities**

TC-62P

Rev. 5/08

Certified Pollution Control Facilities may request a refund of sales/use taxes paid by submitting the following:

1. A signed letter requesting a refund of sales and use tax paid which includes:
 - Requestor's name
 - Requestor's sales tax account number or federal identification number
 - Amount of refund requested
 - Name and telephone number of an individual who can answer questions regarding the refund claim
 - Name of the pollution-control project
2. A copy of the signed certification letter from the Department of Environmental Quality, Division of Air Quality or Division of Water Quality.
3. A spreadsheet or other summarization which includes the following information for **each transaction for** which a refund is requested for sales or use tax **paid to a seller** on qualifying purchases:
 - Seller name
 - Seller account number (optional)
 - Seller location
 - Invoice date
 - Invoice number
 - Description of item(s) purchased
 - Taxable amount
 - Utah sales tax paid
 - Proof of payment, such as cancelled check or bank statement
4. A spreadsheet or other summarization which includes the following information for **each transaction** for which a refund is requested for sales or use tax **accrued** and remitted directly to the Tax Commission on qualifying purchases:
 - Seller name
 - Utah Sales and Use tax account number under which the tax was paid
 - County/City codes under which the tax was reported
 - Date of purchase
 - Description of item(s) purchased
 - Taxable amount
 - Sales tax rate(s) and tax amount accrued
 - Date(s) tax was paid to the Utah State Tax Commission

Note: In addition to a hard copy, you should provide the spreadsheet information electronically (CD, e-mail file, etc.).

Send the above to:

**Technical Research Unit
Utah State Tax Commission
210 North 1950 West
Salt Lake City UT 84134**

If you have any questions, please contact the Tax Commission at (801)297-7790 or toll free 1-800-662-4335, extension 7790.

EXHIBIT D
Warranty Procedures

- 1.0 Contractor warranties concerning the Work are specified in Article 18 of the Contract.
- 2.0 In addition to the warranty requirements of Article 18 of the Contract, the following procedures shall be observed in all cases where the Owner has performed warranty work for the Contractor's account pursuant to Section 18.6:
- (a) A failure report, which shall contain technical and logistical information sufficiently detailed to enable Contractor to assess the damage of the Work and to evaluate appropriate corrective action, shall be provided by Owner within a reasonable period of time after the occurrence of any event giving rise to a warranty claim.
 - (b) Warranty claims shall be submitted in accordance with paragraph (c) below, and Owner shall include, as a required minimum, the following documents:
 - (i) applicable failure report;
 - (ii) list of equipment and materials purchased or used in accomplishing the repair, schedule of operations, and subcontractors hours applicable to each claim, and a copy of any internal work orders or purchase orders prepared in connection with each such claim;
 - (iii) Owner's maintenance and repair records with respect to the equipment for which the claim is being made, including the manufacturer/vendor part number and serial number and the identification by part number and serial number of the next major assembly call out (such as, but not limited to, turbine, generator, electrical cabinet); and
 - (iv) copies of invoices received or prepared for costs and expenses claimed.
 - (c) All warranty claims pertaining to failure of the equipment for which Owner has undertaken corrective action pursuant to Section 18.6 of the Contract and paragraph 3.0 of this Exhibit "D" during any calendar month shall be submitted by Owner to Contractor on or before the last day of the following calendar month. Claims shall be paid by Contractor on a net 30-day basis. Work performed by Owner under a warranty claim shall be billed on a time and materials basis as further defined below in paragraph (d). Any warranty claim submitted by Owner that is not disputed by Contractor within ninety (90) days shall be deemed to have been accepted by Contractor.
 - (d) "Time and Material" in connection with a warranty claim is defined as follows:

- (i) With respect to "Time," the product of 100% of the normal hourly wage (including fringe benefits, insurance and taxes) Owner pays with respect to its particular employee (not including overhead) multiplied times the number of hours each employee performed the particular work.
 - (ii) With respect to "Material," 100% of the actual purchase price paid by Owner or an Affiliate to a third party for the materials incorporated or consumed in connection with the Work; and
 - (iii) With respect to Work performed by a subcontractor (other than an entity which is an Affiliate of Owner, Work done by any such entity being deemed Work done by Owner through its own employees for purposes of this definition), 100% of the actual amount paid by Owner to the subcontractor for such Work.
- (e) Owner shall maintain adequate records to support all warranty claims and allow Contractor access to such records within ten (10) days of notice.

3.0 Pursuant to Section 18.6 of the Contract, if Owner performs repairs for Contractor, Owner shall invoice Contractor in accordance with paragraphs 2.0(c) and (d) above.

EXHIBIT E
FORM OF CONTRACTOR'S INVOICE

[Date] _____ Invoice number: [_____]

PacifiCorp
Attention: Project Manager
1407 West North Temple Suite 210
Salt Lake City, UT 84116

Gentlemen:

[_____] a [_____] corporation ("Contractor"), submits this application for payment ("Certificate") pursuant to Article 7 of the Engineering, Procurement, and Construction Services (the "Contract") between Contractor and PacifiCorp ("Owner") dated as of [_____] , 2012 ("Contract").

Unless otherwise defined herein, all capitalized terms used in this Contractor's Invoice shall have the meanings specified for such terms in the Contract.

1. The undersigned is a duly authorized representative of Contractor, authorized to execute and deliver this document on behalf of Contractor.
2. The information in all material documents and supporting papers prepared or signed by Contractor or any of its officers or employees and submitted to Owner and in direct support of this Contractor's Invoice and in connection with the Work, taken as a whole, is in all material respects, true, correct, and complete.
3. The Work is being performed in accordance with the Contract.
4. That portion of the Work, as particularly set forth in Attachment "1" hereto [Attachment "1" shall describe the progress to date in comparison to the Progress Payment Schedule and include all necessary documentary evidence including submittal of completed schedule of values with dollar values], was completed during the month of _____ , 20__ , entitling Contractor to a monthly Progress Payment of \$_[_____]. The actual amount to be paid is reflected in the table below:

EXAMPLE

	As of Previous Month	For This Month (This Invoice)	Total After this Invoice
Contract Fixed Price Amount			
Estimated Sales Taxes			
Approved Changes			
Contract Price to Date			
Cumulative Progress Amount			
Amount of Retainage withheld by Owner (1) in form of Letter of Credit (2) in form of Cash Total Retainage			
Actual Amount Paid or to be Paid			

5. Attached as Attachment "2" hereto are the Partial Release and Waiver of Liens and Claims and the Final Release and Waiver of Liens and Claims (as applicable) prepared by Contractor and each Major Subcontractor in accordance with Contract Article 7 as applicable.

6. Except as set forth in Attachment "3" attached hereto or any Change In Work Form previously submitted by Contractor or executed by the Parties, Contractor is aware of no facts that would constitute the basis for a Change in Work as defined in Contract Section 17.1. Attachment "3" describes each event that provides the basis on which Contractor can claim that the Contract Price should be increased or that any of the Project Guaranteed Dates should be extended and with respect to each such event, specifies the amount of such proposed increase in the Contract Price and the duration of each such proposed extension to the extent reasonably known by Contractor as of the date thereof.

IN WITNESS WHEREOF, the undersigned has executed this Certificate on the date first above written.

By: _____

Project Manager

EXHIBIT F
Critical Path Schedule Requirements

The Contractor shall prepare a Critical Path Schedule(s) meeting the following requirements:

- a) The Critical Path Schedule shall be a time-scaled, resource-loaded critical path method, float- rate driven, logic diagram schedule of all design, procurement, construction and administrative Work activities for the Project, however the resource loading and commodity data is proprietary to Contractor and will not be distributed.
- b) The Critical Path Schedule shall include allowance for normal delays, difficulties and productivities that may be encountered in performing the Work including weather and holidays, employee training, safety stand-downs, etc.
- c) The Critical Path Schedule shall identify Contractor's plan of execution for the engineering/design, procurement, equipment and material shipments and deliveries, erection, training, start-up and testing, and acceptance phases of the Work as, well as key permits and Major Subcontractor and Owner interfaces and requirements necessary for the Work. The construction schedule must be coded in such a way as to provide individual progress and schedules in accordance with an agreed upon sequence.

The Critical Path Schedule shall be based on predetermined work-week hourly basis communicated to Owner.

- d) A complete, fully functional and accurate electronic version including all functional levels on Primavera (using the most current version acceptable to Owner and Contractor) of the Critical Path Schedule (and any updates thereto) shall be provided to the Owner as well as with the printed copy. Individual activity work hours and commodity quantities are not required to be included in this deliverable
- e) The initial Critical Path Schedule shall be provided within one hundred twenty (120) days of the Notice to Proceed. The Critical Path Schedule shall be updated monthly at a minimum. Periodic updates to the Critical Path Schedule shall be provided as part of the Monthly Progress Report.
- f) In addition to providing the current Critical Path Schedule as part of the Monthly Report as set forth in Exhibit K (Form of Monthly Progress Report), the Contractor shall make available the current Critical Path Schedule to the Owner upon request.

- g) The Critical Path Schedule shall include all Milestones as identified in Exhibit J.

Note: Contractor's accepted Critical Path Schedule will be set forth in this Exhibit.

EXHIBIT G

Engineering Documents, Drawings and Other Deliverables

1.0 General

To facilitate Owner's review in accordance with the terms of this Contract, the following submission requirements shall be met by the Contractor.

All transmittals are to clearly indicate the Owner's name, Contractor's project number, Owner's project number and name, how they are being sent, and the reason for the submittal. The transmittal should include a clear, concise description of all documents enclosed. Documentation by drawing number, revision number, and date should be indicated, if applicable. Distributions to other parties are to be shown on the face of the transmittal.

All documents prepared by Contractor or any of its Subcontractors shall be in English and shall bear the project number, name. Each document shall clearly indicate the applicable status, e.g. Preliminary, for Information, for Review, for Bid, for Construction, For Record Purpose.

Note: The following statuses are given to drawings and are shown on the drawing:

Manufacturer drawings:

- A – Authorized
- E – Exceptions Noted
- R – Returned to manufacturer for correction
- I – Information Only

Engineered drawings:

- T – Transmitted for approval
- C – Issued for construction
- F – For record purpose

All drawings, documents and manufacturer information shall indicate PacifiCorp as the Owner, Contractor shall ensure that the Owner is listed as the owner of record with all subcontractors and manufacturers providing any and all material or equipment for the project.

The measurement system shall be U.S. Customary System, and all drawings and dimensions shall be to scale. Non-scale dimensions (NTS) on drawings will not be permitted on scalable drawings. A scale bar shall be included to permit use following photo-reduction.

All drawings shall be prepared per PacifiCorp Energy's General AutoCAD/ Drafting Standards hereafter referenced as (Specification DCAP876). Drawings shall be prepared on PacifiCorp Thermal Group borders. If Contractor is unable to provide drawings on said borders, a written itemized request for exemptions must be submitted

for review and acceptance by Owner. If exceptions are agreed to a complete drawing index must be provided using the drawing index template provided with Specification DCAP876 and associated documents.

Contractor shall utilize Microstation for drawing development. Upon completion of the Project, all deliverable dgn files will be converted to deliverable AutoCad dwg format. Contractor shall provide all drawings and information using PacifiCorp specified attributes. Contractor's vendor supplied drawings will be submitted in the same format (pdf) as submitted to the Contractor.

Acceptable drawing sizes are indicated in Specification DCAP876. Drawings shall be prepared in such a way that photo-reduction to B size shall result in a legible and useable drawing. When drawings larger than B size are submitted, a B size print shall also be submitted.

2.0 Design Review By Owner

Contractor shall provide to Owner any and all information upon which the design is based, including, but not limited to the results of survey, geotechnical and materials investigations, shop drawings, design drawings and manufacturers' data. Engineering calculations are available for review by the Owner in the Contractor's engineering design office.

Contractor and Subcontractor generated drawings and documents shall be issued to Owner for review. The final level of drawing and document review, including quantity required, shall be determined at the project kickoff meeting. Electronic AutoCAD files of drawings and other documents shall be submitted in addition to the hard copies as a part of the same transmittal and provided on Compact Disc (CD) or other electronic device as may be directed by the Owner. These electronic drawings will be checked by Owner for compliance to documentation standards.

Except where expressly agreed otherwise by Owner, the following will apply to document submittals by Contractor or Subcontractors:

- a. Drawings: Full size prints of the size customary for the type of drawing and at least one copy in "B" size (11" x 17" format). In addition, one copy shall be submitted in electronic form ("PDF" or comparable for design and construction drawings only). Final drawings shall be AutoCAD and must not be a newer version than that which is currently being used by PacifiCorp Energy.
- b. Documents: Letter size hardcopies and one electronic copy shall be provided for written text such as letters, specifications, procedures design criteria, manuals, lists, etc. in Microsoft Word and / or Excel format.
- c. Drawings and Documents: Contractor shall make reasonable efforts to secure electronically formatted drawings and documents from all Subcontractors. When electronic formatting as noted in "a" and "b" above is not obtainable due

to supplier policies or procedures then Contractor shall have such materials converted and submitted in ".tif " or ".pdf" format.

- d. Instruction, Operation, Equipment and all other Manuals: PDF manuals and other multi-page documents are file size limited to 100 MB and shall include a table of contents or index. Any PDF or multi-page document that is larger than must be reduced or separated by chapter or tab. It is recommended that all chapters or tabs be bookmarked. Once the files or documents are placed on a Compact Disc(CD) they should be organized in the order of the hard copy binder or as one PDF (if less than 100 MB).

Subcontractor drawings and documentation shall also be submitted in hardcopy and electronic format to Owner as described above. Owner may make comments directed to Contractor on Subcontractor drawings and documents if items are found not to be in compliance with the requirements of this Contract. Contractor shall be obligated to resolve any such compliance issues with Subcontractor in a timely manner and resubmit Subcontractor drawings and documents.

3.0 Deliverables

The Contractor shall submit general specifications covering the type and design of all principal components of the equipment when specifications have not been provided in the Contract.

All materials shall be fully identified by the Contractor.

The Contractor shall submit a complete bill of materials and list of all instruments and accessories supplied for each equipment category or specification. Contractor shall submit all bills of materials and equipment identification information electronically to the Owner.

The Contractor shall be responsible for coordination with Owner and / or Owner's contractors for necessary interfaces. At the same time a copy of the interface information shall be submitted to the Owner for review. The Contractor shall plan for the exchange of information in order to ensure the completion of the whole project meets the schedule requirement of the Contract.

The Contractor shall submit detailed procedures for testing, commissioning and putting into operation all equipment and / or systems as required.

The Owner will not necessarily examine all details submitted by the Contractor and may at Owner option require submittal to be subject to review or regard them as for information and record purposes.

The Contractor shall be responsible for any discrepancies, errors, or omissions on the drawings, or other documents, supplied by Contractor or Subcontractors.

The Contractor shall complete any and all noted changes to the drawings and data which may be necessary to complete the Contract requirements.

Any work commenced prior to Owner's review of the drawings and /or data shall be at Contractor's risk and any necessary design changes to comply with the requirements and objectives of the Contract shall be made at no additional cost to the Owner or cause delay to the project schedule.

Contractor deliverables supplied to Owner shall include but are not limited to the following:

- A complete drawing index, in an Excel compatible file format per Specification DCAP876. Index shall include all Contractor and Sub-Contractor drawings.
- Diagrams - electrical one-line, electrical three-line, schematic, wiring including relay/control schematics, logic, SCADA and communication block diagrams.
- Physical arrangement and equipment drawings including site grading, equipment arrangement, building arrangement, civil, raceway and power, structure drawings, and underground utilities. The final list of drawings to be provided shall be determined by Owner after consultation with Contractor.
- Drawings of all equipment foundations showing all structure and equipment outline requirements including anchor bolts and foundation loads that are to be used in the design of the foundations.
- Internal panel component arrangement drawings including terminal block size, location, spacing and types.
- Equipment, instrument, device, cable/conduit/raceway, and electrical load lists and schedules.
- Instrument manuals and data sheets (including protective and auxiliary relays, etc).
- Equipment manuals and data sheets
- Complete system operating manuals
- All drawings used for construction.
- Design Statements - Overall design concept and detailed design criteria.
- All Subcontractor's drawings, documentation, and manuals including outline drawings.
- Schedules, including engineering, procurement, construction and integrated Critical Path Schedule.
- Project procedures manual - Procedures for design, review and comment or approvals, procurement, construction, scheduling, progress reports, etc.
- Quality assurance and quality control program manuals.
- Environmental protection manual
- Construction safety assurance plan.
- Procurement specifications.
- Erection specifications and procedures.
- Material instruction bulletins and cut sheets.
- Contractor Acquired Permits.
- Progress Report, monthly, weekly, etc.
- Meeting minutes and reports.

- Instructions for handling, storage, and pre-operational and operational maintenance of equipment.
- Testing and commissioning plans and reports.
- Site and shop inspection and testing plans and requirements.
- Material safety data sheets for all hazardous materials and equipment.
- Test procedures including site and shop testing plans and requirements.
- Test reports or other required reports.
- Final commissioning and acceptance reports / documents.

4.0 Final Drawings

Contractor shall provide detailed "as built" drawings for the entire project consisting of, but not limited to, plan and profile sheets, foundation detail drawings, mechanical, electrical, civil, one-line, three-line, schematics, control logic, wiring, raceways, conduits and duct banks. Documents shall be re-drafted as necessary to incorporate final information. Mark-up sketch, referencing, and other field marking techniques are not acceptable as final conformed drawings. Contractor shall prepare "For Record Purposes" of the original drawings or data sheets.

During construction, Contractor shall update and maintain on file in the field current mark-ups of all drawings and data sheets to represent actual work completed.

Conformed drawings developed by the Contractor shall be issued as the next sequential revision from previous releases. The revision block shall state "For Record Purposes". All clouds, revision diamonds, and other interim control markings shall be removed. All information listed as "later" or "hold" shall be completed. The conformed drawings shall be clear and readable in both full size and B size reduction. Contractor shall provide new versions of Subcontractor drawings if the Owner judges originals to be too damaged, deteriorated, or illegible.

All Subcontractors' drawings shall be conformed to reflect actual installed configuration. These Subcontractor drawings shall be in sufficient detail to indicate the kind, size, arrangement, weight of each component, and operation of component materials and devices, the external connections, anchorages, and supports required; the dimensions needed for installation, and correlation with other materials and equipment. Final Subcontractor's drawings shall be bound in the equipment operation and maintenance manuals. One electronic copy for each drawing shall be supplied in AutoCAD format. (The AutoCAD version shall not be newer than current version being used by PacifiCorp Energy).

Drawing Information:

All AutoCAD and drawing requirements are per Specification DCAP876 and associated documents. This specification includes, but is not limited to, information on the following:

- PacifiCorp Title Block Information. /Borders are provided and required.

- Drawing numbers shall conform to the existing specific plant numbering guidelines. If there are no existing guidelines that apply, PacifiCorp will supply new numbers that can be used.
- Indexes, lists, data sheets, and schedules per Specification DCAP876, or other if approved.
- Drawing revisions.

5.0 Lists

All lists, including but not limited to drawing lists, instrument lists, equipment lists, circuit lists, raceway lists, conduit lists, piping and accessories lists, bills of materials, etc. shall be furnished in an Excel compatible file format per Specification DCAP876, or other as may be approved by Owner.

Instrumentation Lists and Data Sheets:

- All instruments shall be given a “Tag Number” composed of two to four alpha characters and a three digit numeric reference per the Instrumentation Society of American standards and existing specific plant procedures.
- The “Tag Number” will be used to reference all instruments on drawings, instrument indexes and data sheets.
- Data sheets for each instrument shall reference vendor, model numbers, conditions of service, construction material, specifications, etc.

Equipment Lists:

- All equipment shall be given a “Tag Number” identifying the type of equipment, the media that it services and a numeric reference per existing specific plant procedures.
- The “Tag Number” will be used to reference all equipment on drawings, instrument indexes and data sheets.
- Equipment indexes shall reference service location, drawing references, rating, manufactures, data sheet locations, etc.

Electrical Circuit Schedule:

- All electrical cables shall be given a “Circuit Number” that meets specific plant requirements. Information on the existing system will be provided upon contractor selection.

- Cable Numbering
Cable numbering shall sequentially follow the existing specific plant numbering system. Multi-Conductor Signal Wire:
- Multi-Conductor Signal Wire:
Multi-conductor signal wire color scheme shall match the existing specific plant system.
- The “Circuit Numbers” will be used to reference all equipment on drawings, instrument indexes and data sheets.
- Circuit indexes shall reference service location, drawing references, rating, manufactures, data sheet locations, etc.

Piping Line List:

- All piping shall be given a “Line Number” that shall match the existing specific plant system.
- The “Line Number” will be used to reference all pipes on area/routing drawings, indexes and line lists.
- The line list shall contain line sizes, description of starting and ending location, operating and design location, insulation, drawing references, etc.

6.0 Software Requirements

All Contractor Deliverables including final drawings, lists, and manuals shall be provided to the Owner in the appropriate file format listed below. This requirement pertains to both Contractor and / or original equipment manufacturer (OEM) developed deliverables.

All Contractor deliverable lists, provided in database format, shall be designed to be integrated into Owner's existing applications. Owner will provide Contractor with formatting information as required.

Contractor shall provide electronic submittals in the following software formats:

Software Function	Software Name
Word processing	Microsoft Word
Spreadsheets	Microsoft Excel
Database	Microsoft Access

Design/Construction & Original OEM Drawings	AutoCAD version no newer than that currently being used by PacifiCorp Energy. Drawings in PDF format are only acceptable for design and construction phases of the project. (See specification DCAP876.)
Project Schedules	The most current Primavera format acceptable to Owner.
Scannable Material	Adobe Acrobat ".pdf" or ".tif"

7.0 Submission of Drawings and Data

The documents and drawings for review, comment, or approval, shall be submitted to the Owner at the following address.

PacifiCorp Energy
 Attn.: Contact person
 Specific plant information

Additional copy (or copies) may be directed for submittal to other Owner Representative(s) as requested.

Drawings / documents shall be updated as the engineering and design progresses to reflect current design(s). Revisions shall be identified per specification DCAP876.

The Owner shall review all documents for conformance with the contract and mark or stamp said documents to indicate whether changes or corrections are required. Any and all necessary changes or corrections will be noted on the documents and returned to the Contractor. The Contractor shall resubmit the corrected or changed documents, with changes and corrections clearly indicated.

When no further corrections or changes to the drawings submitted by the Contractor are required, they shall be marked "Issued for Construction." The Contractor shall supply one (1) reproducible and one (1) electronic copy for each of the "Issued for Construction" drawings to Owner for record. The Owner will inform the Contractor when the final drawings have been received.

Design information may later be included on the certified drawings. The fact that such design information may later be included in the instruction and/or operating manuals does not relieve the Contractor from compliance with this requirement.

EXHIBIT H

Release and Waiver of Liens and Claims

Exhibit H-1

(Contractor Form)

PARTIAL

RELEASE AND WAIVER OF LIENS AND CLAIMS

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the undersigned _____ (the "Contractor"), by contract dated _____, (the "Contract") with PacifiCorp, (the "Owner") did furnish labor, equipment and/or materials utilized in connection with improvements to real property owned by Owner, which property and/or improvements are described or more commonly known as the Lake Side Block 2 (the "Project"), located in Utah County, Utah.

WHEREAS, Contractor has agreed upon a progress payment amount for certain work performed in connection with that portion of the Project described in Attachment 1 (the "Work") in the amount of _____ (\$ _____) for labor, equipment and/or materials furnished at or relating to the Project; and

WHEREAS, in consideration for Owner's release of payment to Contractor for the above described Work, Owner requires Contractor to release all liens and claims for payment for labor, equipment and/or materials arising out of work performed prior to and as part of that Work for which Contractor will be receiving payment of the above aforementioned amount, except for (i) claims for amounts withheld by Owner as Retainage; (ii) previously submitted Reserved Claims; and (iii) the following claims:

all of the foregoing, collectively "Reserved Claims").

NOW THEREFORE, this _____ day of _____ for and in consideration of all sums paid heretofore under the Contract and the sum of _____ Dollars (\$ _____) to be paid herewith pursuant to the terms of the Contract, the legal sufficiency of which is hereby acknowledged, the undersigned, on behalf of itself and anyone acting or claiming through or under it, intending to be legally bound:

(a) acknowledges that, except for the Reserved Claims, it has been, or upon full payment of the aforementioned amount will be, paid in full for all labor, equipment, materials, services, fixtures, apparatus or machinery furnished or work performed for the Project at any time prior to, and including, the work performed for which Contractor will be receiving the above aforementioned payment (collectively the "Furnished Work"), and

(b) does hereby conditioned upon payment of the aforementioned amount, but otherwise unconditionally and without reservation waive, release, remise and relinquish, except for the Reserved Claims, any and all actions, demands, debts, counterclaims, set-offs, claims and any liability whatsoever relating to the payment of the above aforementioned amounts or any event or circumstance that would constitute a Change In Work (as defined in the Contract), including without limitation claims for disputed work, extra work, impact costs, inefficiency or delay, whether known or unknown, whether accrued or unaccrued, arising out of or related, directly or indirectly, to the Furnished Work, the Contract or the Project as of [Insert date of Invoice/Lien Waiver signature], which it ever had or may now have against the Owner, the Owner's lender (if any), and their officers, agents, attorneys, employees, successors and assigns, or any labor or material payment bond (if any) furnished in connection with the Project, and

(c) on behalf of itself and anyone acting or claiming through or under it and upon receipt of payment from Owner, hereby waives and releases, except for the Reserved Claims, any mechanics', materialman's or similar liens or stop notices and all rights to file any such liens or notices in the future against the Project and on the monies or other consideration due for the Furnished Work, and agrees to defend, indemnify and hold harmless the Owner from and against any and all costs and expenses (including reasonable attorney fees and costs) resulting from any such claim or lien.

(c)

(Date)

(Signature)

STATE OF _____)

) ss:

COUNTY OF _____)

On the _____ day of _____, before me personally came _____;
to me known, who being by me duly sworn, did depose and say that he/she resides at
_____; that he/she is _____ (title)
of _____, the [corporation] that executed the foregoing
instrument and that he/she signed his or her name thereto with full authority to do so.

(Signature)

Attachment 1

The "Work"

H-2

(Subcontractor Form)

**PARTIAL
RELEASE AND WAIVER OF LIENS AND CLAIMS**

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the undersigned _____ (the "Subcontractor"),
by contract dated _____, (the "Contract") with _____, (the
"Contractor") did furnish labor, equipment and/or materials utilized in connection with
improvements to real property owned by PacifiCorp ("Owner"), which property and/or
improvements are described or more commonly known as the Lake Side Block 2 (the "Project"),
located in Utah County, Utah.

WHEREAS, Subcontractor has agreed upon a payment amount for certain work performed
in connection with that portion of the Project described in Attachment 1 (the "Work") in the
amount of _____ (\$ _____) for labor, equipment and/or materials
furnished at or relating to the Project; and

WHEREAS, in consideration for Contractor's release of payment to Subcontractor for the
above described Work, Contractor requires Subcontractor to release all liens and claims which
Subcontractor ever had or may now have arising out of work performed prior to and as part of that
work for which Subcontractor will be receiving payment in accordance with the Contract, except
for (i) claims for amounts withheld by Contractor as retainage and (ii) the following claims:

(all of the foregoing, collectively the "Reserved Claims").

NOW THEREFORE, this ____ day of _____ for and in consideration of all
sums paid heretofore under the Contract and the sum of _____ Dollars
(\$ _____) to be paid in accordance with the terms of the Contract, the legal sufficiency of
which is hereby acknowledged, the undersigned, on behalf of itself and anyone acting or claiming

through or under it, intending to be legally bound:

- (a) acknowledges that, except for the Reserved Claims, it has been, or upon full payment of the aforementioned amount will be, paid in full for all labor, equipment, materials, services, fixtures, apparatus or machinery furnished or work performed for the Project at any time prior to, and including, the work performed for which Subcontractor is receiving the aforementioned payment (collectively the "Furnished Work"), and
- (b) does hereby conditioned upon payment of the aforementioned amount, but otherwise unconditionally and without reservation, waive, release, remise and relinquish, except for the Reserved Claims, any and all actions, demands, debts, counterclaims, set-offs, claims and any liability whatsoever relating to the payment of the aforementioned amount, including without limitation claims for disputed work, extra work, impact costs, inefficiency or delay, whether known or unknown, whether accrued or unaccrued, arising out of or related, directly or indirectly, to the Furnished Work, the Contract or the Project as of [Insert date of Invoice/Lien Waiver signature], which it ever had or may now have against the Contractor, Owner, the Owner's lender (if any), and their officers, agents, attorneys, employees, successors and assigns, or any labor or material payment bond (if any) furnished in connection with the Project, and
- (c) on behalf of itself and anyone acting or claiming through or under it, hereby waives and releases, except for the Reserved Claims, any mechanics', materialman's or similar liens or stop notices and all rights to file any such liens or notices in the future against the Project and on the monies or other consideration due or to become due for the Furnished Work, and agrees to defend, indemnify and hold harmless the Contractor and Owner from and against any and all costs and expenses (including reasonable attorney fees and costs) resulting from any such claim or lien.

(Date)

(Signature)

STATE OF _____)

) ss:

COUNTY OF _____)

On the _____ day of _____, before me personally came _____;
to me known, who being by me duly sworn, did depose and say that he/she resides at
_____; that he/she is _____ (title)
of _____, the [corporation] that executed the foregoing
instrument and that he/she signed his or her name thereto with full authority to do so.

(Signature)

Attachment 1

The "Work"

Exhibit H-3
(Contractor Form)

FINAL
RELEASE AND WAIVER OF LIENS AND CLAIMS

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the undersigned _____ (the "Contractor"), by contract dated _____ (the "Contract"), with PacifiCorp ("Owner"), did furnish labor, equipment and/or materials utilized in connection with improvements to real property owned by Owner, which property and/or improvements are described or more commonly known as the Lake Side Block 2 (the "Project"), located in Utah County, Utah.

NOW THEREFORE, this _____ day of _____, for and in consideration of all sums paid heretofore under the _____ Contract and the sum of _____ Dollars (\$ _____) the legal sufficiency of which is hereby acknowledged, the undersigned, on behalf of itself and anyone acting or claiming through or under it, and intending to be legally bound:

(a) acknowledges that, except for the claims expressly set forth in Attachment 1 and for which Contractor has delivered a dispute Notice (the "Reserved Claims"), it has been, or upon full payment of the aforementioned amount will be, paid in full for all labor, services, materials, fixtures, equipment, apparatus or machinery furnished or work performed for the Project (collectively the "Work") and,

(b) does hereby, conditioned upon payment of the aforementioned amount, but otherwise unconditionally and without reservation, waive, release, remise and relinquish, except for the Reserved Claims, any and all actions, demands, debts, counterclaims, set-offs, claims and any liability whatsoever relating to the payment of the Contract Price (as defined in the Contract) or any event or circumstance that would constitute a Change In Work Event (as defined in the Contract) in respect of any Work, including without limitation claims for disputed work, extra work, impact costs, inefficiency or delay, whether known or unknown, whether accrued or unaccrued, arising out of or related, directly or indirectly, to the Work, the Contract or the Project

which it ever had or may now have against the Owner, the Owner's lender (if any), and their officers, agents, attorneys, employees, successors and assigns, or any labor or material payment bond (if any) furnished in connection with the Project, and

(c) on behalf of itself and anyone acting or claiming through or under it, hereby waives and releases, except for the Reserved Claims, any mechanic's, materialman's or similar liens or stop notices and all rights to file any such liens or notices in the future against the Project and on the monies or other consideration due or to become due from the Owner for the Work, and agrees to defend, indemnify and hold harmless the Owner from and against any and all costs and expenses (including reasonable attorney fees and costs) resulting from any such claim or lien.

(Contractor)

(Date)

(Signature)

Title: _____

STATE OF _____)

) ss:

COUNTY OF _____)

On the _____ day of _____, before me personally came _____;
to me known, who being by me duly sworn, did depose and say that he/she resides at
_____ ; that he/she is _____ (title)
of _____, the [corporation] that executed the foregoing
instrument and that he/she signed his or her name thereto with full authority to do so.

(Signature)

Attachment 1

Claims

H-4
(Subcontractor Form)
[RFP Form To Be Used]
FINAL
RELEASE AND WAIVER OF LIENS AND CLAIMS

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the undersigned _____ (the "Subcontractor"), by contract dated _____ (the "Contract"), with _____ ("Contractor"), did furnish labor, equipment and/or materials utilized in connection with improvements to real property owned by PacifiCorp ("Owner"), which property and/or improvements are described or more commonly known as the Lake Side Block 2 (the "Project"), located in Utah County, Utah.

NOW THEREFORE, this _____ day of _____, for and in consideration of all _____ sums paid heretofore under the Contract and the _____ sum of _____ Dollars (\$ _____), the legal sufficiency of which is hereby acknowledged, the undersigned, on behalf of itself and anyone acting or claiming through or under it, and intending to be legally bound:

- (a) acknowledges that, except for the claims expressly set forth in Attachment 1 (the "Reserved Claims"), it has been, or upon full payment of the aforementioned amount will be, paid in full for all labor, services, materials, fixtures, equipment, apparatus or machinery furnished or work performed for the Project (collectively the "Work"), and
- (b) does hereby conditioned upon payment of the aforementioned amount, but otherwise unconditionally and without reservation waive, release, remise and relinquish, except for the Reserved Claims, any and all actions, demands, debts, counterclaims, set-offs, claims and any liability whatsoever relating to the right to the payment under the Contract, including without limitation claims for disputed work, extra work, impact costs, inefficiency or delay, whether known or unknown, whether accrued or unaccrued, arising out of or related, directly or

indirectly, to the Work, the Contract or the Project which it ever had or may now have against the Contractor, Owner, the Owner's lender (if any), and their officers, agents, attorneys, employees, successors and assigns, or any labor or material payment bond (if any) furnished in connection with the Project, and

(c) on behalf of itself and anyone acting or claiming through or under it, hereby waives and releases, except for the Reserved Claims, any mechanic's, materialman's or similar liens or stop notices and all rights to file any such liens or notices in the future against the Project and on the monies or other consideration due or to become due from the Contractor or the Owner for the Work, and agrees to defend, indemnify and hold harmless the Contractor and Owner from and against any and all costs and expenses (including reasonable attorney fees and costs) resulting from any such claim or lien.

(Subcontractor)

(Date)

(Signature)
Title: _____

STATE OF _____)
) ss:
COUNTY OF _____)

On the _____ day of _____, before me personally came _____;
to me known, who being by me duly sworn, did depose and say that he/she resides at
_____ ; that he/she is _____ (title)
of _____, the [corporation] that executed the foregoing
instrument and that he/she signed his or her name thereto with full authority to do so.

(Signature)

Attachment 1

Claims

EXHIBIT I
Key Personnel

The following personnel are considered Key Personnel and will not be removed from the Project prior to the completion of their assignment without prior Owner approval. Contractor shall provide this list for Contractor and for all key Subcontractors for major equipment, engineering, and construction services.

Individual	Title
**	Project Executive
**	Engineering Project Manager
*	Engineering Project Engineer
**	Site Project Manager
**	Major Subcontractor Project Manager
*	Major Subcontractor Project Engineer
	Other key Subcontractor Key Personnel
**	Project Manager
*	Project Engineer
*	Construction Manager
*	Startup Manager
*	Quality Control and Assurance
*	Health, Safety and Environmental Manager
*	Engineering Manager
*	Procurement Manager
*	Project Controls Manager
*	Lead engineer by discipline

*Contractor shall provide the list of names of Key Personnel within 60 days of Effective Date or as reasonably available after award of a contract to a key Subcontractor if Subcontractor is not known within 60 days of Effective Date. Owner has the right to reject the proposed individual submitted if, in Owner’s reasonable judgment, the proposed individual does not have appropriate background and experience.

**Contractor shall provide the list of names of Key Personnel within 60 days of Effective Date or within 10 days of award of a contract to a key Subcontractor if Subcontractor is not known within 60 days of Effective Date. Owner has the right to reject the proposed individual submitted if, in Owner’s reasonable judgment, the proposed individual does not have appropriate background and experience.

EXHIBIT J
Milestone Schedule

CONTRACTOR MILESTONES

Milestones	Date
Mechanical Completion Date	
Substantial Completion Date	
Additional Milestones as mutually agreed upon by Owner and Contractor. There will be a total of no less than 60 Contractor Milestones as characterized by examples identified below and as mutually agreed upon by Owner and Contractor upon completion of the Critical Path Schedule and prior to Notice to Proceed.	See Note 1 below.

Examples of Contractor Milestones include:

Milestone	Date
Preliminary drawings & heat balances issued	
Combustion turbine generators awarded	
Critical Path Project Schedule Delivered to Owner	
Updated Subcontractor List Delivered to Owner	
Safety & Security Program Delivered to Owner	
Quality Assurance Program Delivered to Owner	
Deliverables Schedule Delivered to Owner	
Steam turbine generator awarded	
HRSGs awarded	
Other major equipment awarded (BFPs, GSUs, condenser, air cooled condenser)	
Construction mobilization	
Major underground ductbank and piping complete	
CT 2A foundation complete	
HRSG 2A foundation complete	
CT 2B foundation complete	
HRSG 2B foundation complete	
CT 2A equipment delivered	
CT 2B equipment delivered	
Spare Parts List delivered to Owner	
Performance testing protocol and test procedures delivered to	

Owner	
O&M Manuals delivered to Owner	
Training Program submitted for Owner review	
Steam turbine generator foundation complete	
Air Cooled Condenser foundations complete	
Steam turbine I/P delivered	
Steam turbine LP delivered	
Air Cooled Condenser installation complete	
Steam turbine generator delivered	
CT 2A Mechanical complete	
CT 2B Mechanical complete	
Steam turbine GSU installed	
CT 2A & 2B GSUs installed	
HRSG 2A erection complete	
HRSG 2B erection complete	
HRSG 2A & 2B chemically clean completed	
Backfeed capable	
HRSG 2A critical piping complete	
HRSG 2B critical piping complete	
Air Cooled Condenser Erected/Mechanically complete	
Operator Training complete	
Field Erected Tanks complete	
CT 2A first fire and first synchronized	
CT 2B first fire and first synchronized	
HRSG steam blows complete	
Operator training completed	
Spare parts lists and O&M manuals released	
Steam turbine synchronized	
Mechanically Complete	
HRSG 2A& 2B CEMS certification testing complete	
Major equipment tests complete	
Substantial completion	
Final Acceptance	

Note 1:

Dates to be finalized upon completion of the Critical Path Schedule as required by Section 4.29 of the Contract.

EXHIBIT K
Form of Monthly Progress Report

1.0 Progress Reporting Requirements

Contractor shall submit to Owner, on a monthly basis, progress reports including an updated Critical Path Schedule(s) as defined in Contract Sections 4.29 and 4.30. The Critical Path Schedule shall be progressed against the baseline schedule (or agreed updates thereof as may be confirmed through a Change in Work), and all significant variances to baseline explained. Electronic copies of the complete and final Monthly Progress Report shall be provided in Microsoft Word, Microsoft Excel, Primavera (for schedules) and Adobe Acrobat.

The Contractor shall prepare Monthly Progress Reports meeting the following minimum requirements:

- a) Table of Contents - Monthly Report
- b) Executive Summary - Current Month
A synopsis of project status addressing specific aspects of the Project to include construction, engineering (by discipline), procurement (issuance of major purchase orders and subcontracts), shipment/delivery of major items, Substantial and Final Completion Dates and key concerns facing the project.
- c) Personnel Safety
A synopsis of the Contractor's safety performance for the month including numbers and types of injuries and lost time accidents, audit results, and site safety initiatives shall be provided.
- d) Environmental Report
A synopsis of the Contractor's environmental compliance for the month shall be provided, including a description of any deviations and reporting from applicable regulations, codes and standards.

Labor Report

A synopsis of additions/reductions by craft/craft turnowner/management ratios/safety staffing.

- e) Summary of Progress and Status of Engineering, Procurement and Construction Activities

Current Month -- A synopsis of the Project progress completed as of the current month. Reporting format shall be based on completion of Milestones and other critical path activities, and construction, engineering (organized by discipline), procurement (issuance of purchase orders), productivity curves by craft,

shipment of materials and equipment to the Site, manpower loading (including actual versus planned) by craft, status of Contractor acquired permits or regulatory approvals, status of material and equipment in storage, commodity installation curves (actual versus planned) by system, training and start-up.

Next Month -- The expected progress for the Project in the next thirty days shall be provided in outline form based on engineering, procurement, shipment, construction and equipment installation and commissioning.

60-Day Look Ahead - The expected progress for the Project in the next thirty days shall be provided in outline form based on engineering, procurement, shipment, construction and equipment installation and commissioning.

- f) **Priorities/Issues/Concerns**
Identification and evaluation of problem areas that are anticipated to have Contractor require a modification of to the Contract, site coordination issues requiring Owner support or resolution, or community relations issues requiring Owner support or involvement.

- g) **Schedule Update**
Report important items and events, such as purchases and dates of arrival of major equipment components, identify completion of Milestones.

Schedule reports shall be presented in a format (hard and electronic copy) using a version of Primavera acceptable to Owner. An updated copy of the Critical Path Schedule shall be attached to the Monthly Progress Report with a written analysis of schedule status, including actual versus planned progress as indicated by the initial base line Critical Path Schedule (and any updates thereof), with reference to the Milestones and Critical Path Schedule. The schedule analysis shall include evaluation of early, late, and actual progress curves. The schedule analysis shall also include float analysis by system and/or discipline as well as overall project critical path.

- h) **Permit Status**
Provide a listing of Contractor Acquired Permits and Owner Acquired Permits including current status and the date the permit is to be obtained.

- j) **Drawings and Procurement Status**
The updated engineering drawing list, engineering and procurement Schedule, and current status as compared to overall schedule. Depending upon volume, this may be submitted on a monthly basis as a separate document.

- k) **Project Financial Status**
The section shall include the billing, forecast, and accrual breakdowns, for the current month, a comparison of the Progress Payment Schedule with the actual progress payments to date, and financial review of the Project to date.

Progress curves measuring actual progress versus planned progress shall be included for the total progress as well as for individual bulk quantities such as cable pulled, terminations completed, duct bank, concrete poured, civil works completed, steel erected, structures erected, piping installed, insulation installed, loop checks completed, etc.

1) Meeting Status

A summary with minutes of major meetings for the current month and agenda for next month's meeting identifying the date and the expected attendees and including a one or two-sentence summary of anticipated topics of discussion for the next month and schedule for the next month meeting date.

EXHIBIT L

Owners Safety Program and Special Conditions

PLANT SECURITY

Plant security is under the direct control of Company and is in accordance with Company's established procedures, which include the requirements stated in this Article but shall not be limited to these provisions. Contractor and its personnel and its subcontractor's personnel of any tier shall strictly adhere to All PacifiCorp Energy Plants security provisions. Except for Blundell and Gadsby plants, Company will furnish, within fenced-in areas of the plant, a guard force to control access to and from the plant.

Access into and out of the fenced-in area surrounding the plant is electronically controlled by a proximity card system and Gai-tronics phones. Company may provide to Contractor the necessary security access cards coded to operate the appropriate gate(s) to access Contractor's work area during the work hours established for this Contract. Instructions for use of Gai-tronics phones are posted at most phone locations. All security access cards are to be returned to Company upon completion of the work. Contractor agrees to pay to Company a \$30 fee for each replacement card and for each unreturned card.

Except for Blundell, Carbon, Dave Johnston, Gadsby, and Wyodak plants, all personnel working at the plant site and all repeat visitors may be provided and, where provided, shall be required to keep in their possession at all times, while on the premises, an identification ("ID") badge provided by Company. Visitor's badges will be available, but persons with such badges may be required to be escorted by a designated representative of Company.

Contractor will be assigned a personnel gate through which its employees must enter and depart. ID badges issued to Contractor's employees may, at Company option, be utilized as "brass", and Contractor will be responsible for the control of badges issued to its employees, subcontractors, suppliers and visitors.

Even though Company provides guard service, Contractor shall be fully responsible for all Contractor-furnished material and equipment, as well as Company-furnished material and equipment received by Contractor.

Designated parking areas for all persons have been established outside the fenced-in area of the plant. Certain individuals, authorized specifically by Company, may drive vehicles onto the plant site and may enter and leave through the main gate at times designated by Company. Access to the plant site between the hours of 3:30 P.M. local time and 7:00 A.M. of the normal work week and all hours on weekends shall be subject to the consent of Company. Contractor shall follow the procedure designated by Company in obtaining consent for access to the plant site at other than normal working hours.

Contractor shall maintain and submit to Company an up-to-date inventory of materials, tools, and

equipment brought onto the plant site.

A representative of Company shall have the unqualified right to demand identification of and/or search all persons and all vehicles entering or leaving the plant site. Materials leaving the site must have an appropriate material pass issued by Company. When leaving the site upon project completion, advanced arrangements for tool inspection must be made. These inspections must be coordinated with Company.

There are areas within the plant which are restricted. Before entering these areas, Contractor shall obtain prior consent from Company representative. Any individual found in restricted areas without Company consent shall be subject to expulsion from the site.

SAFETY, HEALTH, ACCIDENT AND DAMAGE PREVENTION

Prior to start of any work required by this Contract, Contractor shall be responsible for assuring that each of its own employees, together with all employees of its subcontractors of any tier, are fully informed concerning all safety, health, and security regulations pertaining to their work, including but not limited to, confined space, fall protection, tag out/lockout procedures, and hearing conservation regulations.

Contractor shall arrange with Company to have all its work force and/or its subcontractor work force attend a plant orientation which may include a safety video. All personnel may be required to sign a sheet with their name acknowledging attendance.

Contractor shall comply with all safety standards and accident prevention regulations promulgated by Federal, State or local authorities having jurisdiction and will take or cause to be taken such additional measures as reasonably necessary to protect the life and health of all employees engaged in the performance of this Contract and work required hereunder. Contractor shall be responsible for the manner in which tools and equipment are used including the proper use of safety devices and equipment necessary to safeguard other workmen.

Contractor's non-English speaking employees shall receive safety information in their native tongue. Contractor shall provide Company with the names, job title, work schedule, and language of non-English speaking employees that will be working at Company's facility. Contractor shall provide a translator during the plant safety orientation so that each non-English speaking employee shall be able to comprehend the information being presented. Contractor shall provide a bilingual employee who shall be responsible for communicating safety information from English to the non-English speaking employees. Contractor shall provide a bilingual employee who shall be on plant site in the immediate vicinity of non-English speaking employees at all times to communicate emergency information and instructions. Should the nature of the contract work require Contractor to divide into smaller work groups separating non-English speaking employees from the bilingual employee by more than 1000 ft. distance, additional bilingual employees shall be utilized at a ratio of one per work group. Company shall provide a hard hat sticker to be worn by Contractor's bilingual employee(s). Contractor's bilingual employee shall conduct a walk down of the work area with all non-English speaking employees, translating signs explaining hazards and warnings prior to

commencing work.

Contractor shall at all times conduct all operations under this Contract in such a manner as to avoid the risk of bodily harm to persons or risk of damage to any property. Contractor shall promptly take all precautions which are necessary and adequate against any conditions which involve a risk of bodily harm to persons or a risk of damage to any property. Contractor shall continuously inspect all work, materials, and equipment to discover and determine any such conditions and shall be responsible for discovery, determination, and correction of any such conditions.

For work performed in a confined space, as defined by Federal and State law, Contractor shall: 1) comply with all OSHA and other permit space requirements; 2) have a formal written program defining in detail Contractor's procedures for such compliance; and 3) provide a copy to Company of such program prior to performing any such work. Contractor shall promptly advise Company of any hazards confronted or created in permit or non-permit spaces and shall provide Company copies of all tests, permits, and other required documentation resulting from such work.

No scaffold shall be erected, moved, dismantled, or altered except under the supervision of competent persons.

Contractor is responsible for ensuring compliance with the requirements set forth in the regulations governing the work. Such responsibility shall apply to both its operations and those of its subcontractors of any tier. When violations of the safety and health regulations are called to its attention by Company, Contractor shall immediately correct the condition to which attention has been directed. Such notice, either oral or written, when served on Contractor or its representative(s) shall be deemed sufficient.

In the event Contractor fails or refuses to promptly comply with the directive issued by Company, Company may issue an order to suspend all or any part of the work. When satisfactory corrective action is taken, an order to resume work will be issued by Company. Contractor shall not be entitled to any extension of time, nor to any claim for damage, nor to excess costs by reason of either the directive or the suspension order. Failure of Company to order discontinuance of any or all of Contractor's operations shall not relieve Contractor of its responsibility for the safety of personnel and property.

Contractor shall:

- a. Submit a safety program to Company for review prior to start of work under this Contract.
- b. Provide for weekly five (5) minute "tool box" safety meetings, conducted by its supervisor/foreman and attended by all craft employees on the job site with a copy of the meeting minutes provided to Company within three (3) days after the meeting.
- c. Conduct regularly-scheduled safety meetings for all levels of supervision.

- d. Provide trained personnel as part of site safety team to insure prompt and efficient first aid and medical care for injured employees. Contractor shall be responsible for transporting any injured personnel.
- e. Designate a competent supervisory employee to carry out Contractor's accident prevention program.
- f. Reimburse Company for any costs incurred by Company resulting from citations for failure of Contractor to comply with governing regulatory agencies.
- g. Have the sole responsibility for providing fire protection in its work area and furnishing Company a written fire protection plan which shall be subject to Company's acceptance prior to commencing work.

Serious accidents and/or fires shall be immediately reported to the Control Room Operator of the unit where the emergency exists. The person that reports the emergency will give their name, state what the emergency is and the location of the emergency. The Control Room Operator will sound the appropriate alarm and will summon appropriate emergency response personnel. The alarm shall be sounded for five (5) seconds and then the location of the fire or medical emergency will be announced over the Public Address System. The alarm will then be repeated. Contractor shall notify Company's designated representative of any serious accident or fire as soon as practical.

In the event of a fire, accident, or evacuation emergency, Contractor is to assemble and account for their personnel as directed by the plant alarm system. Upon completion of the accurate accounting, Contractor is to report the status of their personnel to Company.

Contractor shall maintain an accurate record and shall provide a written report to plant Safety Administrator of all cases of death, fire, occupational diseases, or any injury to employees or the public involved, and property damage by accident, to performance of work under this Contract within forty-eight (48) hours of such incident.

Contractor shall be aware that the Company has adopted a smoke-free policy (See Exhibit P). All facilities which includes all buildings, trailers (including Contractor trailers), enclosed garages, plants, vaults, vehicles and enclosed equipment have been designated as "Non-Smoking" areas. Contractor or its employees shall not be allowed to smoke in these designated areas.

All Contractors' employees working at the plant site shall wear protective equipment appropriate to the specific work activity and in accordance with plant safety rules. All such equipment shall be furnished by Contractor. Protective equipment includes, but is not limited to, hard hats, safety glasses, hearing protection, protective clothing, and safety toe footwear (must be appropriate for the work being performed and must meet ANSI Z41.1, 1967 or the new ASTM F2412 – 05 and F2413 – 05 standard and be non-fabric/non-perforated uppers, oils and acid resistant soles, and be a minimum of Class I/75 or C/75, effective September 1, 1991). Hard hats, safety glasses and safety

toe footwear will be worn at all times while on the plant site except in locker rooms, lunch rooms, and office rooms. Hearing protection will be worn in all posted areas or when otherwise directed by Company. Protective clothing, gloves, and respirators will be used as work conditions dictate to assure the safety and health of the workmen.

Vehicles used to transport employees shall have seats firmly secured and adequate for the number of employees to be carried. Seat belts and anchorages meeting the requirements of 49 CFR Part 571 (Department of Transportation, Federal Motor Safety Standards) shall be installed in all motor vehicles. Workmen will not be allowed to ride in a pickup or truck standing up or with their feet dangling over the side while the vehicle is in motion.

All vehicles on site will observe the plant speed limit as posted.

All Contractor provided equipment and vehicles will be operated with the headlights on while operating on the property. This will increase visibility, thereby enhancing the safety of all employees of Company and Contractors.

Metal ladders are prohibited on the plant site.

Contractor shall leave a job site in as safe a condition as possible. Before leaving a job, it shall be Contractor's duty to correct or arrange to give a warning on any condition which is hazardous.

Unsafe conditions shall be identified by barriers, signs or some other suitable method (Jim Bridger plant requires protective orange fencing). Danger area signs and barricades shall be designated by predominant red color. Caution area signs and barricades shall be designated by predominant yellow color. Barricades, barricade tape and/or flagging shall have properly completed yellow information tag (supplied by Company) attached in a conspicuous location stating date, reason for barrier and person to contact. Signs and barricades shall be removed immediately upon completion of the job requirement.

Contractor's work practices shall minimize interference and disruption to plant maintenance and operation. Contractor shall not remove or alter any part of the existing structures, equipment or system without prior knowledge or consent of Company. Contractor shall, at all times during the performance of the work, be in strict compliance with the plant's Protective Tagging and Clearance Procedures.

MATERIAL SAFETY DATA

Contractor shall be familiar with and abide by all provisions of the OSHA "Hazard Communication Standard". Contractor shall pay special attention to the following sections of the "Contractor Employees" section of the PacifiCorp Hazard Communication Program:

- a. [R]equire... that suppliers furnish appropriate Material Safety Data Sheets (MSDS) and appropriate labels of all purchased chemicals.

- b. For materials Contractor brings to the jobsite, MSDS for those materials must be presented to Company for review by the Company's plant Safety Administrator and plant Environmental Engineer prior to commencement of work. All materials must meet all State and Federal Regulations for containment.
- c. [R]equire... Contractor and all employees to review the MSDS of the appropriate hazardous chemicals, and follow the requirements of the OSHA Hazard Communication Standard.

HAZARDOUS MATERIALS AND HAZARDOUS WASTE

To comply with State and Federal regulations concerning hazardous materials and hazardous wastes, Contractor using any regulated substances, including but not limited to chemicals, paints, thinners, and solvents, on the plant site is responsible for the proper storage, usage, and disposal of the material or waste. Contractor shall be responsible to inform Company Representative of the quality and type of hazardous materials brought on site in writing. This information is to be copied to the plant Environmental Engineer. Contractor shall also be responsible for the removal of all wastes and unused materials, whether hazardous or nonhazardous, at the job completion.

A Contractor whose employees will be working in an area where hazardous chemicals are or may be present shall be notified in writing of the chemicals present and provided with appropriate MSDS. It will be the responsibility of Company to inform Contractor of the hazardous chemicals in the plant to which their employees may be exposed.

The application, disposal, utilization or other handling of any lead or lead based material or product ("Lead Work") shall be performed in strict compliance with all applicable Federal, State and local laws and regulations, including without limitation Federal OSHA Construction Standard For Lead (29 CFR 1926.62). Prior to performing any Lead Work, Contractor shall prepare and have in effect a written work plan specifically for such Work. Contractor shall provide a copy of that work plan to Company for review upon request by Company, which request may be made at any time or times. Contractor shall provide documentation evidencing proof of competency of individuals under Contractor's supervision executing the work plan.

The removal or handling of any devices known or suspected to contain mercury shall be coordinated with the Company and performed in accordance with Company procedures and State and Federal regulations. Any devices which Contractor removes during the course of work which contain mercury shall be given to Company for proper disposal.

Computer wastes (cathode ray tubes, central processing units) or electronic components that contain "mother-board" like components may contain high levels of Resource Conservation and Recovery Act (RCRA) regulated wastes. These materials may not be discarded into plant landfills. If these types of waste are generated by the Contractor, the Contractor shall ensure that the wastes are properly recycled and/or removed from Company property.

CONTRACTOR IS HEREBY NOTIFIED THAT ASBESTOS IS PRESENTLY IN THE CARBON, GADSBY AND NAUGHTON PLANTS AND ASBESTOS ABATEMENT WORK IS

CURRENTLY UNDERWAY. ASBESTOS IS PRESENT IN SOME AREAS IN THE JIM BRIDGER, HUNTINGTON, HUNTER, DAVE JOHNSTON AND WYODAK PLANTS.

TO THE EXTENT THAT THE WORK UNDER THIS CONTRACT INCLUDES THE HANDLING OF OR EXPOSURE TO ASBESTOS, CONTRACTOR SHALL PROVIDE PERSONNEL APPROPRIATELY TRAINED REGARDING ASBESTOS REQUIREMENTS, LAWS, AND REGULATIONS.

Contractor shall notify Company if suspected asbestos containing material is encountered. Contractor shall not disturb in any way the encountered material. If at any time while performing any maintenance or repairs, Contractor encounters insulation or gasket material and cannot identify it as non-asbestos, Contractor shall have the responsibility of notifying Company of a potential asbestos hazard. Contractor shall present samples to be tested to Company per plant procedures. Company will test samples of suspect material. Company's insulating Contractor shall contain or remove all asbestos containing material.

ENVIRONMENTAL COMPLIANCE

A representative of the Company shall provide the Contractor with a copy of the Environmental RESPECT Policy. Prior to starting any work, Contractor shall be responsible for assuring that all of its employees are fully aware of the Environmental RESPECT policy. Contractor shall conduct its work in such a manner as to minimize all harmful impacts to the environment, and take all necessary precautions to protect the environment. Contractor will be responsible to continuously inspect and monitor the performance of its employees as it relates to environmental stewardship. Environmental issues created by the Contractor's operations and/or activities shall be promptly addressed by the Contractor and reported to the plant Environmental Department, as appropriate.

Contractor is responsible for maintaining strict compliance with all State and Federal environmental regulations. Many of these regulations have important requirements associated with employee training. Contractor has sole responsibility for any employee training required by State and Federal regulations. Proof of successful training completion and periodic testing or recertification must be provided upon request by Company

In addition to the applicable local, State and Federal requirements, Contractor must comply with the following:

- a. Contractor shall abide by the plant's fugitive dust control plan including but not limited to speed limits, minimizing soil disturbance, application of water to control dust during work activity and proper operation and maintenance of equipment.
- b. Contractor shall obtain applicable Construction or Operating Permits prior to constructing activities or operating stationary equipment which:
 - 1) Emits greater than five tons per year of any of the following pollutants: particulate matter (PM10), sulfur dioxide (SO₂), carbon monoxide (CO), nitrogen oxides

- (NO_x), and volatile organic compounds (VOC);
- 2) Emits greater than 500 pounds per year of any hazardous air pollutant (HAP), and greater than 2,000 pounds per year for any combination of HAPs;
 - 3) Regulated by any standard or requirement of Section 111 or 112 of the Clean Air Act; and
 - 4) Has the potential to be a major source, as defined in R307-101-2, Utah Annotated Code (UAC) or Wyoming Air Quality Standards and Regulations, Chapter 6, Section 3.
- c. Contractor shall notify the Company Safety Administrator or plant Environmental Engineer prior to performing any sandblasting activity and abide by the plant's Title V Operating Permit conditions related to sandblasting activities. In the event that Contractor performs sandblasting activities, the Contractor shall have a certified Method 9 Visible Emission Observer on site and provide Method 9 observations as required by the plant's Title V Operating Permit.
- d. Contractor shall obtain a Storm Water Construction Permit for construction activities disturbing greater than one acre. Contractor has sole responsibility to perform inspections every 14 days of the runoff control devices, transfer the Storm Water Permit and the inspection sheets to the Company Environmental Engineer within ten (10) days of construction completion. Contractor shall seed disturbed ground as required by the Storm Water Construction Permit.
- e. Contractor shall secure required permits and request approval by Company Environmental Engineer prior to the discharge of any water into the Water of the State. Contractor shall secure required permits and request approval by Company Environmental Engineer prior to dredging or disturbing any waterways on Company property.
- f. Contractor shall abide by the plant's Spill Prevention Control and Countermeasures requirements and shall:
- 1) Notify the Company Environmental Engineer in writing of any equipment or containers that contain 55 gallons or more of petroleum products;
 - 2) Store all containers of petroleum products that are equal to or greater than 55 gallons in Company approved secondary containment;
 - 3) Inspect for leaks on any and all Contractor provided tanks and drums while on site;
 - 4) Report and clean up all spills in a timely manner in accordance with the plant's Spill Prevention Control and Countermeasures Plan;
 - 5) Immediately report to the plant Environmental Department any spill or leak which enters, or threats to enter, any Water of the State, including ground water;
 - 6) Ensure all spills and leaks are cleaned in a prompt and timely manner.

WORK RULES

Contractor shall at all times maintain strict discipline among its employees, including the employees

of its subcontractors of any tier. Contractor shall comply with job site conditions and work rules established by Company and shall cooperate with Company in enforcing such rules.

Any employee of Contractor or of its subcontractors of any tier, who is deemed by Company to be incompetent or disorderly or who possess a danger to the safety of the work, shall be immediately removed from Contract work upon the request of Company and shall not again be employed in the Contract work without the consent of Company.

CONTRACTOR DRUG AND ALCOHOL POLICY

Contractor shall establish, maintain, and provide proof of a confidential drug and alcohol testing program for all of Contractor’s employees and subcontractors assigned to work for any PacifiCorp Energy Plant (collectively, the “Contractor’s Representatives”).

Contractor’s Representatives are prohibited from possessing, using, distributing, dispensing, manufacturing, selling or having in their possession or control any drug/banned substance while on any PacifiCorp Energy Plant property.

The Contractor shall provide for random drug testing that shall include all of Contractor’s Representatives. Contractor may be asked, at anytime, to provide documentation that such testing has taken place. Contractor will cooperate when asked to drug test for safety violations, suspicious or inappropriate behavior, reports of drug use, or physical signs of drug use. Contractor’s Representatives selected for random testing shall be accompanied to the testing site by Contractor’s supervisory personnel as soon as practical on the same day they are selected.

The tests required pursuant to this program must be conducted by a laboratory certified by the National Institute on Drug Abuse (NIDA). The tests must screen at a minimum for the following substances and levels.

Compound	Screen	Confirming
Amphetamines	1000 ng/ml	500 ng/ml
Barbiturates	300 ng/ml	300 ng/ml
Benzodiazepines	300 ng/ml	300 ng/ml
Cocaine Metabolites	300 ng/ml	150 ng/ml
Marijuana (THC)	50 ng/ml	15 ng/ml
Methadone	300 ng/ml	300 ng/ml
Methaqualone	300 ng/ml	300 ng/ml
Opiates	300 ng/ml	300 ng/ml
Phencyclidine	25 ng/ml	25 ng/ml
Propoxyphene	300 ng/ml	300 ng/ml

Ethanol (alcohol)	0.02% percent blood alcohol or equivalent, as indicated by blood, saliva, breathalyzer or similar test.	0.02% percent blood alcohol or equivalent, as indicated by blood, saliva, breathalyzer or similar test.
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Test levels that meet or exceed the above stated levels shall constitute immediate removal of the individual from any PacifiCorp Energy Plant property for no less than one year and responsibility for a tracking mechanism to confirm that the individual has not returned to any PacifiCorp Energy Plant property during that one year period is the obligation of the Contractor.

Failure of the Contractor or any of Contractor's Representatives to comply with this policy shall be grounds for immediate removal from any PacifiCorp Energy Plant property.

In maintaining a drug free workplace, all PacifiCorp Energy Plants expect the full cooperation of the Contractor and any of Contractor's Representatives.

EXHIBIT N

Required Manuals

Design, installation, operation and maintenance manuals shall be supplied by the Contractor and assembled in book form. Manuals shall contain data relevant to each piece of equipment, system design and installation, specifications, startup, operation, shutdown, maintenance and repair program. Manuals shall include, but not be limited to, the following:

1.0 GENERAL REQUIREMENTS

Six (6) copies of the first draft of the manuals (unless specified otherwise in Exhibit "A") shall be submitted to the Owner for review in accordance with the Deliverables Schedule. One electronic copy of the first draft of the manual shall also be submitted to the Owner at this time. The electronic copy shall be in Microsoft Word, Microsoft Excel, AutoCAD, Adobe Acrobat or other legible electronic format for drawings. Electronic formatting other than that listed will require written approval from the Owner.

Eight (8) copies of the final manuals (unless specified otherwise in Exhibit "A") shall be submitted to the Owner in accordance with the Deliverables Schedule. One editable electronic copy of the final manuals shall also be submitted to the Owner at this time. The electronic copy shall be compatible with Microsoft Word, Microsoft Excel, or AutoCAD. Electronic formatting other than that listed will require written approval from the Owner. Incomplete manuals will be returned to the Contractor for completion and re-submittal.

As a minimum, a complete manual shall be submitted for each piece of major piece equipment or system as applicable.

Each section shall be divided into as many volumes as necessary for convenient handling and reference.

The manual format shall be on standard 8-1/2" x 11" paper. Drawings and schedules which are to be bound into the manual shall also be 8-1/2" x 11" or 11" x 17" folded.

The manual shall be prepared for the specific equipment supplied and not for alternative or optional equipment. If generic documents are included the non-applicable portions shall be crossed out.

All documents, illustrations, specifications, equipment data sheets, shop drawings, operating and maintenance instructions and parts lists shall be in the English language and shall comply with the requirement listed herein. Use of the English system of units on documents is preferred; if the metric system of units is used, the drawing, data sheet, specification or illustration shall clearly indicate that the metric system of units is used.

Contractor shall also be responsible for supplying additional information or replacing information as required to keep the manuals complete, accurate and updated.

Each manual shall be assembled and bound in heavy-duty post binders designed for rough usage. Light duty and ring binders are not acceptable. Binder capacity shall not

exceed four inches, nor shall material included exceed the designed binder capacity. If the material to be furnished exceeds this capacity rating, multiple volumes shall be furnished. Binders shall be sized to the material to be contained, and capacity should not be more than approximately one-half inch greater than the thickness of material within the binder.

Each manual shall include a Table of Contents, front cover, side label, and laminated index tabs. Manual covers shall have a consistent format as indicated on the example cover sheet included at the end of this Exhibit "N".

2.0 MANUALS

2.1. Project Procedure Manual

- General Procedures
- Reference to Contract Statement of Work
- Quality Assurance and Safety Plan
- Project Organization
- Project Management and Control Procedures
- Engineering Procedures
- Procurement Procedures and Log
- Billing and Payment Procedures
- Scheduling
- Communications
- Document Control, Project Filing System, and Distribution and Action tracking (Including subcontractors)
- Construction (Constructability Reviews, Nondestructive Examination requirements, testing requirements, installation and erection specifications, calibration of instruments, inspections, reporting and resolving nonconformance, Field Changes and As-Built).
- Minutes of Meetings and Progress Monitoring Method, Progress Reports and Schedules
- Punch List and Close-Out Plan

2.2. Design Manuals

Design manuals shall contain the following items:

- Procedure for Professional Engineer Sealing of Drawings
- Drawing List, Drawing and Specification Identification System, Units of Measurement and Formats

- System List and Equipment Numbering System
- List of applicable drawings
- Description of Drawing Standards
- System flow diagrams and elementary diagrams
- Access requirements
- Heat, material and power balance diagrams
- Pertinent design considerations
- System design requirements
- System description including principle and mode of operation, required interlocks, hydraulic gradients, etc.
- Equipment descriptions
- Material list including list of equivalent standards if Contractor standard differ from those specified.
- Equipment lists itemizing type, performance and technical requirements.
- Overall performance data

2.3. Start-up Manuals:

The Contractor shall prepare a start-up plan and manuals and submit to Owner in accordance with the Deliverables Schedule. The start-up manuals shall be revised and resubmitted to Owner as necessary. The start-up manual will contain comprehensive and complete procedures for checkout, startup, and testing of the Facility and will include as a minimum the following items:

- Plant start-up and shutdown procedures
- Startup schedule
- Startup organization chart
- Administrative procedures
- Data sheets
- Test procedures for all tests required for Mechanical Completion, Substantial Completion and Final Acceptance.
- Turnover sequences and procedures
- Safety clearance procedure
- Work responsibility matrix

2.4. Installation, Operation, and Maintenance Manuals

Manuals shall include information typically supplied for equipment and/or systems such as the following items:

- System or equipment startup and shutdown procedures
- Description / design criteria of each item of equipment
- Nameplate information and shop order numbers for each item of equipment and components thereof
- Operating procedures and instructions for commissioning, startup, normal operation, shut downs, standby and emergency conditions, and special safety precautions for individual items of equipment or systems
- Listing of any start-up prerequisites
- Normal range of system variables
- Operating limits and hazards for all equipment and systems including alarm and trip set points for all devices
- Testing and checking requirements
- Effect of loss of normal power
- Tolerance of electrical supply frequency variation
- Final performance and design data sheets, specifications, and performance curves for all equipment including test data and test curves
- Preventive maintenance schedule and maintenance instructions for equipment including standard and special safety precautions
- Lubrication schedule showing requirements and specifications for lubricants for equipment
- Specifications for hydraulic fluids
- Dismantling and assembly procedures for equipment with associated tests and checks prior to returning equipment to service.
- Detailed assembly drawings to complement assembly procedures mentioned above including parts lists and numbers for replacement ordering.
- Setting and running clearances and tolerances
- Cleaning and conservation procedures
- Instrument vibration requirements and procedures
- Specifications for any gases or chemicals
- A detailed list of replacement parts, components, and spare parts shall be included. All data shall be at the component level, not the system supplier level, and should include:
 - Name of part

- Identification number and nameplate information
- Manufacturer's drawing number and part number
- Installed quantities and spare part quantities
- Outline sketch diagram
- Required period for delivery
- Name, address, and phone number of supplier/service center
- Drawing showing space provided for equipment maintenance for equipment and any fixed facilities for maintenance such as trolley beams, etc.
- Methods for trouble-shooting
- List of maintenance tools furnished with equipment
- Installation instructions, drawings, and details
- Vendor drawings as appropriate
- Installation, storage and handling requirements.

The above requirements are a minimum; however, requirements which are clearly not applicable to specific items or components may be deleted, however, any additional information which is necessary for proper operation and care of the equipment shall be included.

2.5. Training Manuals

Contractor shall prepare training manuals and materials as described in Exhibit "A".

NAME OF EQUIPMENT CLIENT'S NAME NAME OF UNIT UNIT NUMBER VOLUME NUMBER**	<div style="text-align: center;"> <p>CLIENT'S NAME</p> <p>NAME OF UNIT</p> <p>UNIT #</p> </div> <div style="text-align: center; margin-top: 20px;"> <p>INSTRUCTION BOOK FOR</p> <p>NAME OF EQUIPMENT</p> <p>VOLUME NUMBER**</p> </div> <div style="text-align: center; margin-top: 20px;"> <p>MANUFACTURER'S NAME</p> <p>MANUFACTURER'S ADDRESS</p> </div>	
<i>(Backbone)</i>	<i>(Cover)</i>	
<p>NOTE:</p> <p>Cover Type: Large - 36 point News Gothic Bold</p> <p> Medium - 30 point News Gothic Bold</p> <p> Small - 24 point News Gothic Condensed</p> <p> Smallest - 14 point News Gothic Condensed</p> <p>Backbone Type: 14 point News Gothic Condensed</p>		
<p>**Stamp cover with volume number if instructions are contained in more than one volume</p>		
<p>TYPICAL EQUIPMENT INSTRUCTION BOOK COVER</p>		
	<p>CLIENT'S NAME</p> <p>NAME OF UNIT - UNIT #</p>	<p>PROJECT SKETCH #</p>

EXHIBIT O

Spare Parts and Special Tools

1.0 INTRODUCTION

The Contractor shall obtain from each Vendor a priced listing of recommended spare parts needed for the first three (3) years of operation and first planned overhaul of the equipment supplied as part of the Project. Pricing shall be valid for as long a period (e.g. two to five years) as reasonably available from Subcontractors. Contractor shall include this provision in each of its purchase orders and subcontracts. Each listing shall include the manufacturer of each part, a description of each part (including industry standard part number if available), the assembly or equipment in which each part will be used, and recommended quantities to be stocked. Each listing should also classify the relative criticality of parts based on the manufacturer's experience; and shall list the lead-time required for manufacture and delivery of each part. In each case Contractor shall make recommendations to Owner on specific items and quantities for purchasing spare parts.

All spare parts lists and equipment identification information shall be submitted electronically in Excel format and shall be formatted for integration into Owner's existing equipment management software package. The spare parts lists shall be submitted no less than six (6) months prior to substantial completion.

2.0 SPARE PARTS AND SPECIAL TOOLS

Contractor shall supply, at Contractor's expense, all spare parts and operating consumables Contractor deems necessary for the installation, startup and commissioning, operation, and maintenance of equipment prior to Substantial Completion. Owner shall not be liable in any way for Contractor's inability to achieve Substantial Completion or any other Project Guaranteed Date due to lack of any parts. Contractor shall turn over any Spare Parts required to be supplied as listed in Exhibit "N" to Owner no later than Substantial Completion.

Spare parts require clear identification and shall be identified by part number.

Spare parts shall be packaged and shipped in containers appropriate for the parts. Separate containers shall be used for the spare parts for each major piece of equipment. Where applicable, containers shall be designed and constructed for return shipment of damaged or worn components for repair.

Spare parts shall be protected from damage due to moisture and dirt accumulation during an extended storage period by use of special coatings, airtight membranes, bags of desiccant, or other means acceptable to the Owner.

Each container shall be marked with the large painted legend as follows:

PACIFICORP
PLANT NAME
SPARE PARTS FOR _____ (Name of Equipment & Equipment Number)

CONTRACTOR – OPEN ONLY WITH OWNER’S PERMISSION

A weatherproofed itemized list of the contents shall be attached to the outside of each container. A similar weatherproof list shall be inside each container.

2.1. Spare Parts

The list of spare parts submitted shall be completed by the Contractor and be accompanied by detailed descriptions to identify the spare parts (including the supplier and the address of the supplier) and the specific item or items to which it applies. The Contractor shall indicate the minimum recommended inventory for routine maintenance at installation, startup, and continuous operation based on OEM recommendations. Contractor shall also indicate whether the recommended spare is a stock item or special-order item, the location of the nearest supply point, and approximate lead-time required for shipment.

All spares supplied shall be strictly interchangeable with the parts which they are intended to replace and shall be of the same or better quality as the original parts. Each spare shall be clearly marked with the description, purpose, supplier’s name, Owner’s equipment identification number and original supplier’s part number. If the Contractor, or the original equipment manufacturer (OEM), follows the practice of assigning Contractor or the OEM part numbers to parts purchased, Contractor shall provide a cross-reference between the Contractor's or the OEM’s part number and the part of the original supplier. All parts must be shown clearly on installation drawings.

2.1.1. Recommended Spare Parts

The recommended spare parts shall be listed and shall be those considered desirable by the Contractor.

The recommended spare parts shall include a quotation of the unit price, quantity, description, catalog number, part number, drawing reference(s) etc., for each recommended spare part to completely identify the item and the equipment component for which it is recommended.

The Owner may order all or any of the spare parts at its own discretion.

2.2. Consumable Parts and Materials

The Contractor shall supply a sufficient quantity of consumable parts and materials such as gaskets, seals, anti-corrosion paint for weld areas, handhole covers, etc., as may be required prior to Substantial Completion.

2.3. Tools and Equipment

Any special tools and test equipment required to adjust, dismantle, re-assemble, or maintain any equipment supplied by the Contractor shall be provided by the Contractor.

Tools and test equipment shall be of suitable quality. All special tools for normal maintenance will be turned over to Owner no later than Substantial Completion.

Contractor shall provide a list and supply to the Owner all special tools. The list shall be detailed to identify the function of the tools and the specific item or items for which it applies.

Tools and test equipment shall be neatly arranged in a box and shall be shipped to the site in a suitable separate container clearly marked with the name of the equipment for which the tools and test equipment are intended. The separate container shall be shipped along with the equipment that they will be used on.

Except the special tools supplied with the contract equipment, the Contractor shall also provide a complete list of proposed additional erection tools, and testing and measuring instruments etc., with individual price of each item for Owner's reference and selection.

Maintenance tools for each piece of equipment shall be boxed separately and the boxes shall be marked with the large painted legend as follows:

PACIFICORP
PLANT NAME
MAINTENANCE TOOLS FOR (NAME OF EQUIPMENT)
OPEN ONLY WITH OWNER'S PERMISSION

A weatherproofed itemized list of the contents shall be attached to the outside of each box. A similar weatherproof list shall be inside each box.

The maintenance tools shall include all special handling rigs, bars, stands, slings, and cable. All maintenance tools shall be of suitable condition and shall become the property of the Owner. The Contractor shall include the list of maintenance tools which shall be furnished with the equipment.

In addition to the tools for maintenance and dismantling, the Contractor shall furnish the use of all special tools required for erection of the equipment. Erection tools shall remain the property of the Contractor and all shipping costs to and from the job site shall be at the Contractor's expense. Erection tools for each piece of equipment shall be boxed separately. Erection tools shall not be boxed with maintenance tools.

3.0 SOURCE OF SUPPLY

Contractor shall provide assurances reasonably satisfactory to Owner that Subcontractors shall provide domestic support services (both technical and administrative) and parts supply for all imported equipment, such services and parts to be provided within the time frames typically available for similar equipment used in the United States.

Tobacco Free Workplace Exemption policy

EXHIBIT P TOBACCO-FREE WORK PLACE POLICY

TOBACCO-FREE WORKPLACE POLICY (effective July 1, 2009)

No individuals, whether employees, contractors, vendors, visitors or guests, are allowed to smoke or use tobacco products on the premises of any PacifiCorp facility or property, whether owned or leased. This prohibition includes offices, field facilities, company vehicles and aircraft, garages, parking lots, lawns and sidewalks.

A site exemption has been granted to the Currant Creek site for this project. The Contractor shall establish designated tobacco use areas where Contractor's personnel may use tobacco products. These areas shall be established prior to mobilization at the site. These areas shall be clearly marked. The use of Tobacco products can only be used during designated rest breaks. The locations of the designated tobacco use areas shall be closely coordinated with the Currant Creek Plant Manager. At the designated tobacco use area(s) cigarette disposal receptacles will be provided as will facilities for the disposal of chewing tobacco waste. The Contractor shall be responsible for keeping the area around the designated areas maintained in a clean and sanitary state, and failure to do so may result in the site exemption to the Tobacco policy being withdrawn. In addition, any individual violating the above restrictions can be removed from the site.

REPORTING

Employees are expected to report violations of the company's Tobacco-Free Workplace Policy to their supervisor or a human resources representative. Failure to comply with the Tobacco-Free Workplace Policy will result in discipline, up to and including termination of employment. Smoking in the workplace is a violation of law in certain states and may carry civil penalties for those who violate such laws.

PROTECTION AGAINST RETALIATION

Retaliation against any person who, in good faith, reports a violation of this policy or participates in an investigation of smoking or the use of tobacco products in the workplace is prohibited. If the company finds retaliation has occurred, individuals who engaged in the retaliatory behavior may be subject to discipline, up to and including termination of employment, regardless of whether the original complaint is substantiated.

These policies supersede and revoke any and all past policies and practices, oral and written representations, or statements regarding terms and conditions of employment concerning the subject matter covered herein. PacifiCorp reserves the right to add to, delete, change or revoke these policies at any time, with or without notice. These policies do not create a contract between PacifiCorp and any employee, nor do they create any entitlement to employment or any benefit provided by PacifiCorp to its employees.

CAUTION! - This document may be out of date if printed

Tobacco Free Workplace Exemption policy



**Tobacco Free Work Place
Exemption Policy for
Currant Creek Power Plant**

	Name	Job Title	Signature	Date
Approved By	John Bowater	Managing Director		

Tobacco Free Workplace Exemption policy

1. Introduction

In keeping with its commitment to the health and safety of employees, contractors and visitors on company property, Mid American Energy Holdings Company (MEHC), introduced a Tobacco free workplace policy. The policy which is reproduced in **Appendix A** comes into effect from July 1, 2009.

While retaining its commitment to the well being of staff contractors and visitors, PacifiCorp Energy recognized the logistical challenges faced by enforcing such a policy in areas of its business, where individuals would find it extremely difficult to leave company property, while still ensuring the business ran effectively.

This policy defines specific exemptions to the PacifiCorp Tobacco Free Workplace Policy at **Currant Creek Power Plant**. The exemption rules within this policy must followed or individuals will be subject to disciplinary action under the Corporate Policy

2. General Conditions of the exemption policy

This document details the circumstances under which the PacifiCorp Energy exemption policy can apply at Currant Creek. The following general conditions also apply:

- Under no circumstances will the use of Tobacco products be allowed within any of the plants buildings.
- Only designated Tobacco use areas should be used. These will be clearly marked.
- The use of Tobacco products can only be used during designated rest breaks.

3. Tobacco substances covered within this exemption policy

This exemption policy covers the use of cigarettes, cigars, pipes and any other similar inhalable tobacco products. The exemption policy also covers the use of chewing tobacco and related tobacco products.

Tobacco Free Workplace Exemption policy

4. Designated Tobacco use areas

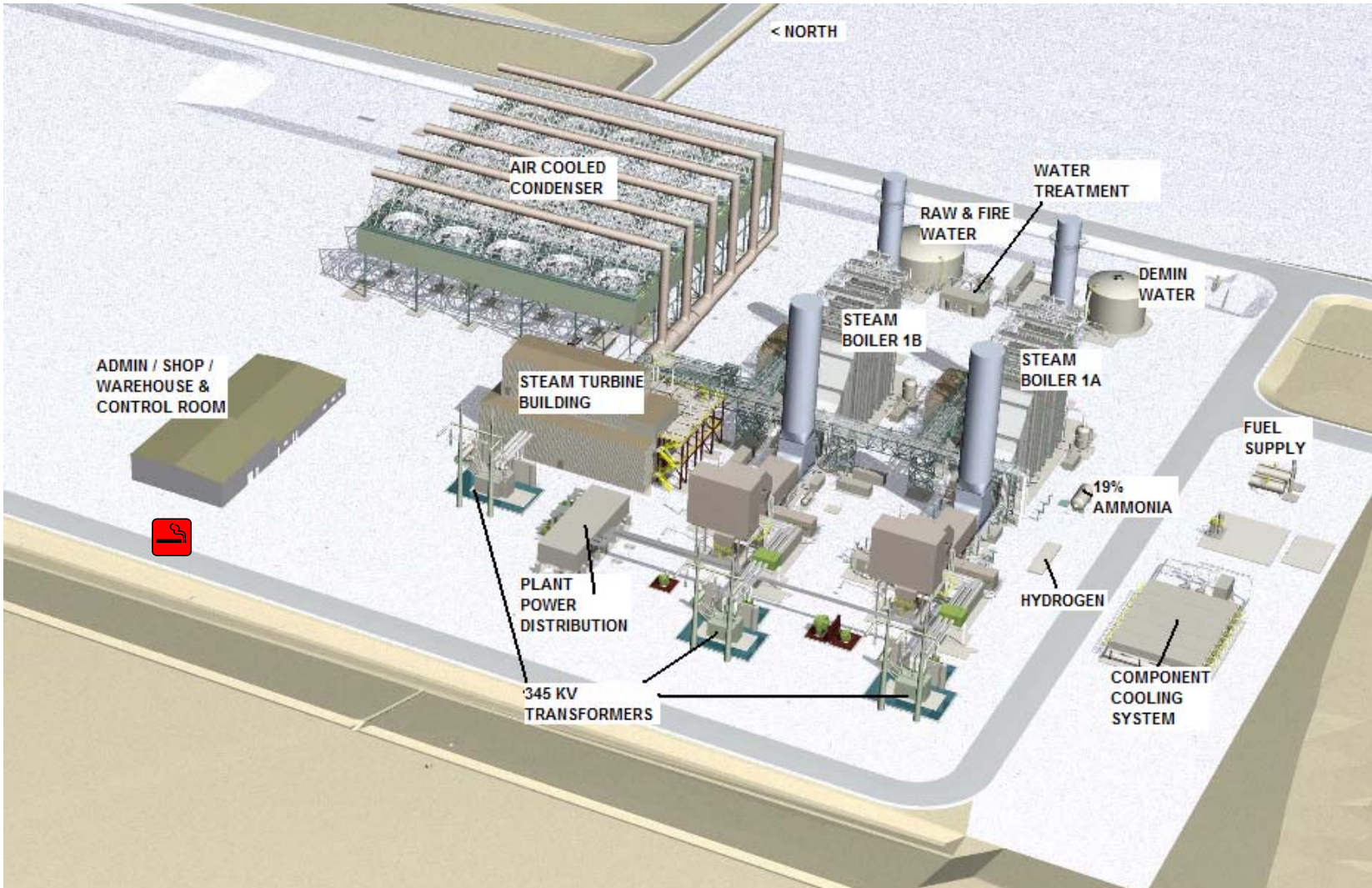
During non outage periods, the area outside the warehouse / workshop on the West side of the administration building is the designated Tobacco use area. This area will be common for all staff, contractors and visitors.

During plant outage periods where significant numbers of contractors are present on site, additional designated Tobacco use areas will be utilized. As the positioning of these areas will depend upon which part of the plant is on overhaul, the positions will be designated at the outage planning stage and agreed upon by the plant manager. It is expected that there would no more than two or three additional areas required.

5. Sanitary equipment

At the designated Tobacco use area(s) cigarette disposal receptacles will be provided as will facilities for the disposal of chewing Tobacco waste. These facilities must be used correctly by Tobacco users, and the area around the designated areas maintained in a clean and sanitary state. Failure to use the provided facilities correctly will result in the site exemption to the Tobacco policy being withdrawn.

6. Site map showing designated Tobacco use area





TOBACCO-FREE WORKPLACE POLICY (effective July 1, 2009)

No individuals, whether employees, contractors, vendors, visitors or guests, are allowed to smoke or use tobacco products on the premises of any PacifiCorp facility or property, whether owned or leased. This prohibition includes offices, field facilities, company vehicles and aircraft, garages, parking lots, lawns and sidewalks.

REPORTING

Employees are expected to report violations of the company's Tobacco-Free Workplace Policy to their supervisor or a human resources representative. Failure to comply with the Tobacco-Free Workplace Policy will result in discipline, up to and including termination of employment. Smoking in the workplace is a violation of law in certain states and may carry civil penalties for those who violate such laws.

PROTECTION AGAINST RETALIATION

Retaliation against any person who, in good faith, reports a violation of this policy or participates in an investigation of smoking or the use of tobacco products in the workplace is prohibited. If the company finds retaliation has occurred, individuals who engaged in the retaliatory behavior may be subject to discipline, up to and including termination of employment, regardless of whether the original complaint is substantiated.

These policies supersede and revoke any and all past policies and practices, oral and written representations, or statements regarding terms and conditions of employment concerning the subject matter covered herein. PacifiCorp reserves the right to add to, delete, change or revoke these policies at any time, with or without notice. These policies do not create a contract between PacifiCorp and any employee, nor do they create any entitlement to employment or any benefit provided by PacifiCorp to its employees.

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EXHIBIT Q

Final Cost Report Requirements

The Contractor shall prepare a Final Cost Report at the conclusion of the Project. Completion of this Final Cost Report will be a condition of Final Completion. This Final Cost Report shall breakdown significant components of the system into property retirement units.

The Final Cost Report will consist of the total project cost broken down into individual retirement units. Individual retirement units include all material, installation labor, engineering, and overheads associated with each major component of the Project. The final cost report will list the total cost and break that cost down into the above major components. All costs in the Contract will need to be allocated to a discrete number of identified retirement units. Where costs are added to an existing system, such as an upgrade to a common fire protection system, the costs will be so identified so that the Owner can update existing retirement unit costs. Where costs cannot be associated with an existing retirement unit the costs will be identified by a description of the new equipment.

Attached is a list of typical retirement units proposed for this resource addition. It is recognized that this list is somewhat incomplete as it applies to this Project and is included for information only. In preparation for the Final Cost Report the Contractor will submit a proposed breakdown of project retirement units based on the final design approximately six (6) months before Substantial Completion. After review by the Owner a final list of retirement units will be developed jointly. A final list of approved retirement units will be approved no less than three (3) months before Substantial Completion. The final list will include a breakdown of property retirement units using %'s or dollars by each unit.

Pollution Control Equipment

As part of the Final Cost Report, the Contractor shall provide a compiled total dollar value for all pollution control equipment and materials on which sales taxes were paid. Inasmuch as sales taxes on pollution control equipment are exempt from sales taxes, the Owner shall apply to the State of Utah for recovery of sales taxes paid on this equipment. Pollution control equipment shall include the following:

1. Combustion Turbine low-NOx combustors.
2. Selective Catalytic Reduction Equipment (including NOx catalysts, catalyst frames, catalyst loading equipment, aqueous ammonia storage tank and forwarding pumps, ammonia flow control skids, vaporizers, fans, programmable logic controllers and injection and distribution piping).
3. Carbon Monoxide/ Oxidation Catalyst Systems (including oxidation catalysts, catalyst frames, hoists and catalyst loading equipment).
4. Continuous Emissions Monitoring Systems (including emissions analyzers, extractive sample umbilicals, data acquisition systems, CEMS shelters and HVAC controls, CEMS control systems, racks and instruments).
5. Low NOx burner for auxiliary boiler.

Location Description	SYSTEM	SUBSYSTEM
Block 2 Common	Buildings	Administration Building
Block 2 Common	Buildings	Warehouses, misc structures, fire protection
Block 2 Common	Grounds	Roads, landscaping, paving, fencing, outdoor lighting
Block 2 Common	Water Supply - Pump Plant	Water supply domestic, raw water, wells
Block 2 Common	Waste Water	Sewage treatment, septic tank, drains, chemical treatment, filters
Block 2 Common	Buildings	Main Power Plant Building
Block 2 Common	Natural Gas Fuel Supply System	Gas piping, filtration, conditioning, fuel heaters
Block 2 Common	AC Electrical System	AC sys, generator breakers, cabling, metering, aux transformers, MCCs, emergency generators
Block 2 Common	Cathodic Protection	Cathodic Protection System, grounding
Block 2 Common	DC Electrical System	DC system, batteries, chargers
Block 2 Common	Freeze Protection	Freeze Protection equipment, controls, heat trace
Block 2 Common	Compressed Air	Central Air Compressor equipment
Combustion Turbine 2A	Bearing Cooling Water	Bearing Cooling Water 2A
Combustion Turbine 2A	Continuous Emissions Monitor	Continuous Emission Monitor System
Combustion Turbine 2A	CO Oxidation System	Carbon monoxide catalyst and frame
Combustion Turbine 2A	Gas Turbine	Combustion Turbine system 2A
Combustion Turbine 2A	Lube Oil System for Turbine 2A	Turbine Lube Oil System

Combustion Turbine 2A	SCR NOx Removal System for CT 2A	Nitrogen oxide reduction equipment
Combustion Turbine 2A	Generator	Combustion Turbine Generator 2A
Combustion Turbine 2B	Bearing Cooling Water	Bearing Cooling Water 1B
Combustion Turbine 2B	Continuous Emissions Monitor	Continuous Emission Monitor System for CT 2B
Combustion Turbine 2B	CO Oxidation System	Carbon monoxide catalyst and frame for CT 2B
Combustion Turbine 2B	Gas Turbine	Combustion Turbine system 2B
Combustion Turbine 2B	Lube Oil System for Turbine 2B	Turbine Lube Oil System
Combustion Turbine 2B	SCR NOx Removal System for CT 2B	Nitrogen oxide reduction equipment
Combustion Turbine 2B	Generator	Combustion Turbine Generator 2B
Steam Turbine 2	Auxiliary Steam	Auxiliary Steam System
Steam Turbine 2	Fireside for HRSG 2A	Boiler natural gas burner equipment HRSG 2A
Steam Turbine 2	Fireside for HRSG 2B	Boiler natural gas burner equipment HRSG 2B
Steam Turbine 2	Bearing Cooling Water	Bearing Cooling Water Steam Turbine
Steam Turbine 2	Boiler Chemical Feed	
Steam Turbine 2	Feedwater	Feedwater System, Feedwater pumps
Steam Turbine 2	Lube Oil Steam Turbine	Turbine Lube Oil System
Steam Turbine 2	Main Steam	HP/IP/LP Steam

Steam Turbine 2	Reverse Osmosis	RO System
Steam Turbine 2	Reheat Steam	
Steam Turbine 2	Heat Recovery Steam Generator (HRSG 2A)	HRSG boiler, piping, other equipment (excludes turbine & generator)
Steam Turbine 2	Heat Recovery Steam Generator (HRSG 2B)	HRSG boiler, piping, other equipment (excludes turbine & generator)
Steam Turbine 2	Water Treatment	Water and chemical treatment
Steam Turbine 2	Alarms and Information Handling	Plant alarm/control/monitoring system for turbines/generators
Steam Turbine 2	Condensate Tankr, piping and condensate pumps	
Steam Turbine 2	Air Cooled Condenser	Cooling tower, structures, fill, other equipment
Steam Turbine 2	Generator	Steam turbine generator
Steam Turbine 2	Main Turbine	Steam turbine

EXHIBIT R
Contractor's Safety Assurance Program

1.0 Contractor's Safety Assurance Program Requirements

The Contractor's Safety Assurance Program shall satisfy the following minimum requirements:

a) Safety

Contractor shall establish a safety program in conformance with the Occupational Safety and Health Standards Administration regulations, including 29 CFR 1910 and 1926, and adhere to those safety requirements at all times.

Contractor shall prepare a site-specific safety program and the program will include:

Written safety procedures;

Designated first-aid stations with arrangements set forth for emergency medical treatment for all site personnel;

A requirement that approved hard hats, safety shoes, safety glasses and all appropriate personal protective equipment depending on hazards, be used by all personnel in construction areas with exceptions of offices, control rooms, lunchrooms, or in vehicles with enclosed cabs;

Site housekeeping procedures;

Site personnel safety practice procedures;

Provision of accident reports for all significant accidents;

All Contractor employees shall attend a safety training indoctrination at the Site prior to commencement of work on the Site.

b) First Aid

Contractor shall provide first aid facilities, of no less than that required by Applicable Laws, in easily accessible and highly visible areas throughout the Site. Contractor shall at all times retain sufficient personnel trained in first aid procedures.

Contractor shall seek emergency medical service, when required, and notify

the control room, Owner's personnel will make the necessary call to arrange for ground or air ambulance service. Contractor shall be responsible for transporting any injured personnel.

c) Site Security

Contractor shall provide for security of Contractor's laydown, storage and Work areas. The Contractor may be required to provide security services on an around the clock basis if problems occur on the substation site, the transmission line rights of way or at Contractor arranged sites.

Contractor will consult and cooperate with the Owner in the development and implementation of security practices and programs for the Project.

Contractor shall prepare and maintain accurate reports of incidents of loss, theft, or vandalism and shall furnish these reports to the Owner in a timely manner.

d) Fire Protection

Contractor shall be responsible for fire protection prior to Substantial Completion. Fire extinguishers shall be available on Contractor's vehicles. Fire extinguishers of the appropriate rating may be required at storage facilities.

e) Inspection

Contractor shall regularly inspect the Work to ensure compliance with program requirements. Contractor will regularly conduct and document safety "walk-arounds" by Contractor supervisors and foremen. An Owner representative may require a specific inspection by the Contractor and Contractor supervision on such an inspection.

Note: Contractor's accepted Safety Assurance Program will be set forth in this Exhibit.

EXHIBIT S

Contractor's Quality Assurance and Quality Control Program

Contractor's Quality Assurance Program Requirements

The Contractor's Quality Assurance and Quality Control Programs shall satisfy the following requirements:

A. General

Contractor shall develop and implement a quality assurance program covering the Work, including engineering/design/procurement, shop inspection and testing, and field quality control program and field procedures, in order to ensure that the Work is performed in accordance with the Contract, applicable industry standard and/or adopted national design code requirements, good engineering and construction practice, and Contractor's drawings and specifications. Such program shall be in conformance with ISO 9000 requirements or ANSI-ASQC E1-1996, and submitted to the Owner for review pursuant to Section 4.19 of the Contract.

The content of the plan shall include quality assurance policies and/or quality control procedures, methods, instructions, exhibits, or other quality assurance method descriptions.

Contractor shall verify that the in-progress and final inspections and tests are performed and documented as required.

Contractor shall maintain accurate and legible records of the quality related activities readily available for review by the Owner.

Contractor shall arrange and facilitate the Owner's inspections in Contractor's and Supplier's facilities and in the field in accordance with the Contract.

B. Engineering/Design

Contractor shall implement an internal quality assurance plan that ensures that the engineering/design/procurement is performed in accordance with Contract requirements, applicable industry standard and/or adopted national design code requirements, and good engineering practice. This plan shall, as a minimum, ensure that there are inter-discipline checks, as applicable, of all design documents, and that all design documents submitted to the Owner have received internal Contractor project management review. Contractor shall periodically audit the project team for conformance with the quality assurance plan, and the results of such audits shall be provided to the Owner.

C. Shop Inspection

Contractor shall inspect and test purchased equipment during fabrication at the Vendor's shop based on the Contractor's quality control procedures and requirements. Such equipment shall be manufactured and tested in accordance with the requirements of the Contract. Where there are no specific Contract requirements tests and inspections shall be in accord with the Vendor's standard procedures. At appropriate stages during manufacture, trial assembly prior to shipping from the Vendor's plant, and final assembly on site, the Vendor's facilities shall be made available for inspection by the Owner. Adequate notice shall be given so that arrangements may be made for the Owner to observe such tests and such plant inspections. (For testing of significant items of the Equipment at the Vendor's shop, Contractor shall provide the Owner a minimum of seven days notice of such tests). The Owner shall have the right to inspect equipment at the Vendor's shop at any time or witness any shop test, at the Owner's expense. Contractor shall incorporate this right in its purchase orders and subcontracts. If any component or material scheduled to be inspected or tested is not ready at the time specified by the Contractor, any additional Owner's expense created by the delay will be to Contractor's account.

Contractor shall submit to the Owner a final, conformed, quality control document for all purchased equipment. This document shall contain the reports and results from all quality assurance testing that were performed on the material and equipment during fabrication.

D. Field Quality Control

Contractor shall perform on the Site the following field quality control activities:

- a) Receive, inspect, and prepare reports for major equipment and materials arriving at the Site.
- b) Ensure the quality of all special processes such as welding, heat treating, hot forming and nondestructive testing.
- c) Provide for independent inspection services in the areas required by Contractor's quality assurance documents and ensure that the Work is performed in accordance with the quality control procedures.
- d) Perform inspection and field testing as required by the Contract and as would be deemed prudent and consistent with engineering and construction practice.
- e) Prepare reports of all tests and submit for review by Owner.
- f) Ensure that all construction supervisory personnel are in possession of all current, applicable drawings related to the work in progress.

- g) Ensure that a file of "as-built" or field marked up drawings representing the current status of the work is maintained current by the Contractor's site organization, and that the Owner has access to the file.
- h) Perform cleanliness and closeout inspections of all major installations.

Note: Contractor's accepted Quality Assurance Program will be set forth in this Exhibit

EXHIBIT T
Form of Assignment Clause for Subcontracts

Capitalized terms used in this **Exhibit T** have the meanings given thereto in the Contract of which this **Exhibit T** is attached.

___[Subcontractor/Vendor]___ under this ___[description of subcontract/purchase order]___ with ___[other party to subcontract/purchase order]___ hereby, in the event of the expiration or termination of that certain (plant and block name) Contract for Engineering, Procurement, and Construction Services, dated _____, 2012, between ("Owner") and Contractor, consents to the assignment of all of Contractor's rights, title and interests in and to this ___[description of subcontract/purchase order]___ to Owner, its assigns and/or its lenders and their respective assigns and agrees that our warranties and obligations hereunder shall inure to the benefit of such parties, all as if such parties were a party to this [description of subcontract/purchase order].

EXHIBIT U
Change in Work Rates

1.0 General

If there is a Change in Work, as defined in Article 17 of the Contract, the Contractor and Owner may mutually agree upon a lump sum Contract Price adjustment (increase or decrease).

Should the Owner and Contractor mutually agree that it is impractical to adjust the Contract Price on a lump sum basis or fail to agree upon such a lump sum adjustment, then the Parties shall agree to a cost adjustment for the Change in Work on a time and materials basis pursuant to Section 2.0 below.

2.0 Time and Materials Adjustment

The time and material rates attached hereto shall be used for Change In Work for which a lump sum adjustment has not been agreed to by the Contractor and Owner. In addition to the rates set out in the attached Tables, all other direct costs resulting from such Change In Work less any savings or cost not incurred plus/minus as required, will be provided at cost plus __ percent (__%) for profit, overhead and any other Contractor costs. Time and material work that involves the services of a subcontractor will be provided at cost plus __ percent (__%).

Reimbursable expenses travel expenses, lodging and food, which shall be billed at actual cost plus __ percent (__%).

Contractor shall insert table of Contractor's rates for direct hire employees based on classification. Rates shall be provided for Straight Time, Overtime and Subsistence (if applicable). The rates shall be inclusive of overhead and profit, payroll burdens, and insurances for such labor, including workers' compensation. Contractor shall identify any additional costs for consumables and small tools, as applicable.

Contractor shall insert table of Contractor's rates for engineering, procurement and construction Management services. Table shall identify general description of category and billing rates. Billing rates shall include all employee's wages, payroll burdens and computer use.

Contractor shall identify how rates may be adjusted on a calendar year basis. Percentage increases shall be mutually agreed between Owner and Contractor.

EXHIBIT V

Exhibit V-1

CONTRACTOR ACQUIRED INSURANCE

Contractor shall maintain or cause to be maintained the following types of insurance subject to the general provisions included in Exhibit "V-3".

1) Workers' Compensation/Employers' Liability

- a) Contractor shall maintain statutory limits for Worker's Compensation to the extent required by Applicable Law, during the entire time that any persons are employed by them on the Site in connection with the Work.
- b) Contractor shall maintain Employers' Liability Insurance in the amount of \$1,000,000 each accident, \$1,000,000 disease policy limit and \$1,000,000 disease each employee.

2) Automobile and Aviation Liability insurance

Contractor shall at all times keep in force the following additional insurance in as far as they may be applicable:

- a) Automobile Liability insurance in respect of all mechanically propelled vehicles used on public highways or in any circumstances such as to be liable for compulsory motor insurance in accordance with Applicable Law of Utah or the applicable State that the vehicle will operate. The limit of liability shall be US \$1,000,000 combined single limit each accident for all owned, non-owned and hired vehicles.
- b) Aircraft Liability insurance, if applicable, in respect of all aircraft owned, non-owned, hired or chartered for use, if any, and hull and aviation liability shall be arranged. The limit of liability shall be US \$25,000,000 per occurrence/aggregate if aircraft or helicopters are used. This requirement can be satisfied by a combination of primary and excess liability policies.

Alternately, Contractor shall require that Subcontractors providing such services to carry and maintain insurance during the course of this project. Contractor may satisfy the Aircraft Liability insurance requirement through its Subcontractor if Subcontractor names Owner as Additional Insured.

3) Commercial General Liability insurance for the Contractor's legal liability arising out of all the engineering, procurement and construction activities of the Contractor, Subcontractors and lower-tier Subcontractors with bodily injury (including mental anguish and death) and property damage limits of \$1,000,000 per occurrence and \$2,000,000 annual aggregate. Such insurance

shall include, but not be limited to, contractual liability encompassing the indemnity provisions of Section 25.2 of this Agreement, products and completed operations, personal injury including contractual, independent contractors, explosion, collapse and underground property damage occurring at the Project Site. Coverage is required to be written on an occurrence form.

4) Contractor's Pollution Liability with a limit of \$5,000,000 each claim/\$5,000,000 annual Aggregate. Including sudden and gradual pollution liability with coverage for bodily injury, sickness, disease, mental anguish sustained by any person, including death and property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, cleanup costs and any related legal and defense costs.

5) Professional Liability insurance covering damages arising out of negligent acts, errors, or omissions committed by Contractor or other party providing engineering and design in the performance of this Contract, with a liability limit of \$1,000,000 each claim/\$1,000,000 annual aggregate. Contractor shall maintain this policy for a minimum of two (2) years after Substantial Completion or shall arrange for a two year extended discovery (tail) provision if the policy is not renewed. The intent of this policy is to provide coverage for claims arising out of the performance of design or engineering Services under this Contract and caused by any error, omission, breach or negligent act for which the Contractor is held liable.

Alternatively, Contractor shall require that Subcontractors or licensed design professionals providing such design services to carry and maintain insurance during the course of the Work. Contractor may satisfy the Professional Liability insurance requirement through its design subcontractor. Evidence of insurance from design Subcontractor to Owner is required prior to acceptance of this requirement.

6) Umbrella or Excess Liability insurance with a limit of fifty million (\$25,000,000) occurrence and in the annual aggregate in excess of the limits of insurance provided in paragraphs 1) (b) Employers' Liability, 2) (a) Automobile Liability, and 3) Commercial General Liability on a follow form basis. Coverage is required to be written on an occurrence form.

7) Insurance providing coverage for Contractor's own equipment being used at the Site and not becoming permanent works of the Project.

8) All Other Insurance Required by Applicable Law.

9) Ocean Marine Cargo Insurance (OMC) covering imports, if any, from manufacturers'/suppliers' not otherwise agreeing to carry risk of loss until delivery F.O.B. Project Site. In such event OMC is purchased, coverage will commence from manufacturer's/supplier's location and run continuously (including inland transit) until reaching project site including loading and unloading. Coverage is to be on the basis of Institute Cargo Clauses (A) plus war, plus strike plus riot of plant, equipment, machinery and materials not provided by the Builder's All Risk policy to the Project

Site.

- (a) Coverage is to be on the basis of Institute Cargo Clauses (A) plus war, plus strike, riot and civil strife perils and should include storage off the Project site. The sum insured with respect to each shipment shall not be less than the replacement value of the largest single shipment. OMC coverage to include all voyages (land, water or air) sourced overseas, in Canada and Mexico, if not covered under the Builder's All Risk policy and attaches from the time of leaving the manufacturers'/suppliers' warehouses (including inland marine), to final Project Site.
 - (b) The OMC policy shall carry a 50/50 hidden or concealed damage provision.
 - (c) Deductibles shall not be greater than \$50,000 for any one shipment or conveyance.
 - (d) Contractor shall have obtained such OMC coverage on or prior to the date on which the exposure to the risk covered by the OMC coverage arises.
 - (e) The only permissible cancellation is as follows: (i) cancellation on 7 days' notice for war, strikes, civil commotion, (ii) cancellation on 48 hours' notice for strikes, riots, and civil commotion preventing passage to or from the United States, and (iii) cancellation on 10 days' notice for non-payment of premium.
 - (f) Coverage to continue during storage until Builder's All Risk policy is in force.
- 10) Builder's All Risks ("BAR") insurance including inland transit covering loss or damage to the Work during the construction, and testing and commissioning periods and until Project Substantial Completion Date covering all property used in the fabrication, assembly, installation, erection or alteration of and intended to become a permanent part of the Work described herein. Coverage to include the interest of Owner, Contactor and Subcontractors of every tier, and shall cover the full replacement cost for the values of the Work at risk at the particular time, subject to normal and customary policy exclusions, terms and conditions and subject to the sub-limits as described below, including earthquake, flood, debris removal, demolition and expediting expenses and losses.

The policy will include the financial interest of all parties concerned and is to be on an "all risk" basis including terrorism coverage subject to normal and customary policy exclusions, terms and conditions and subject to normal and customary sub-limits as shown below. Coverage shall also provide inland transit and include on and off-site storage (to the extent storage coverage is not provided under the OMC policy) including fabrication/repairs.

- a) Normal and customary sub-limits shall be provided for the following:
 - Earthquake and Flood: \$100,000,000 each occurrence
 - Expediting Expenses: 20% of loss, subject to a maximum of \$5,000,000 each and

every occurrence.

- Increased Cost of Construction: \$10,000,000 each and every occurrence
- Offsite storage: shall not be less than the replacement value per location
- Property in Transit: The greater of \$10,000,000 or the maximum value of any shipment per conveyance.
- Loss Mitigation: \$500,000 each and every occurrence.
- Pollution and Contamination arising out of an insured peril: \$1,000,000 each and every occurrence.
- Services charges by Fire, Policy and Other Government Authority and Fire Fighting Foam Provided by Third Parties: \$500,000 each and every occurrence.
- Existing Owner Property: \$25,000,000 each and every occurrence
- Protection Devices: \$500,000 each and every occurrence.
- Debris Removal: 10% of loss up to \$10,000,000 each and every occurrence.

- b) The BAR policy shall include a 50/50 hidden or concealed damage provision.
- c) Coverage to include testing (including hot testing for the necessary duration) and commissioning period and resultant damage from faulty design, materials and workmanship (LEG 2), and will include coverage for the transmission line being erected as part of the Work until such line is energized.
- f) Deductibles shall not be greater than \$250,000 per occurrence, except that hot testing deductible of \$1,000,000 is acceptable and earthquake deductible of 2% value of risk at time of loss (\$250,000 minimum deductible) is acceptable.
- g) The only permissible cancellation is as follows: (i) 10 days for non-payment of premium and 30 days for material change in the risk profile of the project after coverage commences.

Exhibit V-2

OWNER ACQUIRED INSURANCE

Owner shall maintain or cause to be maintained the following types of insurance, subject to the general provisions included in Exhibit V-3.

- (1) Worker's Compensation/Employer's Liability. Company shall maintain statutory limits for Worker's Compensation to the extent required by Applicable Law, during the entire time that any persons are employed by them on the Site in connection with the project and Owner shall maintain Employer's Liability Insurance in the amount of \$1,000,000 each accident, \$1,000,000 disease policy limit and \$1,000,000 disease each employee. Owner may self-insure where permitted by applicable law.
- (2) A) Liability Insurance for the Owner's legal liability arising out of its operations and B) Auto Liability Insurance covering owned, non-owned and hired vehicles of the Owner; each policy with limits of not less than twenty-five million (\$25,000,000) per occurrence and in the annual aggregate. Such limits may be achieved by applying limits from an Excess or Umbrella Liability policy. Owner may self-insure Auto Liability where permitted by applicable law.
- (3) All Other Insurance Required by Applicable Law.
- (4) Property Insurance – Owner shall be required to maintain property insurance on its existing property including coverage for loss due to fire or other major perils.

Exhibit V-3

GENERAL INSURANCE PROVISIONS

- (1) All insurance may be carried through the worldwide insurance programs of Owner or Contractor or their respective Affiliates.
- (2) All insurance required to be maintained in Exhibit V-1 shall be endorsed to the effect that Owner, the Financing Entities, the Contractor, any subcontractors of any tier and such other persons as Owner may specify in writing shall be included as additional insured's thereon to the extent of Contractor's indemnity obligations under Section 25.2 of the Contract except for worker's compensation, employers' liability, and professional liability. Third party liability policies shall provide for a cross liability clause applicable to additional insured's. Vendors, suppliers, material dealers and others who merely transport, pick up, deliver or carry materials, personnel, parts or equipment, or any other items or persons to or from the Site shall not be considered "subcontractors" for purposes of insurance coverage. Waiver of Subrogation will be provided on all policies listed in Exhibits V-1 and V-2, except for professional liability.
- (3) In the event any insurance described herein (including the limits or deductibles thereof), other than insurance required by Applicable Law, shall not be available on commercially reasonable terms in the commercial insurance market for facilities having a similar risk profile, the Parties shall consent to waive the requirement to maintain such insurance to the extent the maintenance thereof is not so available on such terms, but the Parties shall continue to remain obligated to maintain any such insurance up to the level, if any, at which such insurance can be maintained on commercially reasonable terms in the commercial insurance market for facilities with a similar risk profile.
- (4) Loss payable wording shall be reasonably acceptable to the Financing Entities, if applicable.
- (5) Unless specified above, no insurance shall be canceled or reduced with respect to the interest of the Financing Entities without 30 days (or 10 days for nonpayment of premium) prior written notice. In the event of cancellation due to nonpayment of premium, the Financing Entities, if any, shall have the right to make payments in order to keep insurance in force.
- (6) All insurance required to be maintained in accordance with Exhibits "V- 1," "V-2" and "V-3" shall be placed with financially sound and reputable insurers having an A.M. Best rating of A- VII or better and with coverage forms acceptable to the Parties.
- (7) Contractor will be responsible to schedule and pay for Marine Cargo Surveys required by the Ocean Marine Cargo (OMC) for equipment specified under the insurance. If

Contractor fails to schedule the required survey, Contractor will be responsible for any reduction in, or loss of, coverage that results from such failure.

- (8) Contractor shall require Subcontractor's of any tier who perform Work at the Site to carry liability insurance (auto liability, commercial general liability) and workers' compensation/employers' liability insurance in amounts customary for Contractor to require of its Subcontractors and where available meeting the requirements of this Exhibit V-1 (excess limits of Subcontractor may be in accordance with Contractor's normal procurement practices), provided however, Contractor shall remain responsible and indemnify the Owner for any claims, lawsuits, losses and expenses including defense costs that exceed any of its Subcontractor's insurance limits or for uninsured claims or losses to the extent required by Contractor's indemnification obligations in Section 25.2 and subject to the limitation of liability provisions set forth in the Contract.
- (9) Owner and Contractor shall each be solely responsible for determining the appropriate amount of insurance, if any, in excess of amounts required under this Contract. The required amounts of insurance shall not operate as limits on recoveries available under this Contract.
- (10) Evidence of Insurance. Evidence of insurance required hereunder in the form of certificates of insurance shall be furnished by each Party when required to be delivered no later than the date on which coverage is required to be in effect pursuant to this Exhibit V-3, as applicable; provided, however, a copy of the OMC and BAR insurance policies or other such evidence of the terms of coverage acceptable to Owner shall be provided by Contractor to Owner not less than thirty (30) days prior to the date on which coverage is required to be in effect. It is hereby understood and agreed that the policy wording to be provided by the Contractor in the case of policies purchased specific to this Project, is confidential and privileged information, and is intended for the use of the Owner in order to satisfy and validate the terms and conditions of this Contract. Not later than the one-year anniversary of the date of delivery of the certificates of insurance hereunder or the expiration date of the policy if for a term of more than one year, and not later than each one-year anniversary or policy renewal date thereafter, each Party shall deliver copies of the certificate of insurance of the renewal insurance policies.
- (11) The OMC and BAR insurance carried by Contractor shall be primary and not excess to or contributing with any property insurance or self-insurance maintained by Owner with regard to the Project.

EXHIBIT W

Form of Acceptable Letter of Credit

IRREVOCABLE STANDBY LETTER OF CREDIT
DATE OF ISSUANCE: _____

BENEFICIARY:
PacifiCorp, an Oregon corporation
[Insert Address]

Re: Letter of Credit No. _____

At the request of [Insert Contractor's legal name], ("Account Party"), [Bank] ("Issuing Bank") hereby establishes our Irrevocable Standby Letter of Credit ("Letter of Credit") in your favor for the aggregate amount of [_____] million United States Dollars [(\$_____)], available to you at sight upon demand at our counters at _____[Location]_____ on or before the expiration hereof. Any request by you to draw on this Letter of Credit must be accompanied by the original or a certified copy of the original of this Letter of Credit, together with a completed certificate in the form attached hereto as Attachment 1, signed by a person purporting to be an officer or authorized agent of you and dated the date of presentation.

We hereby agree with you that documents drawn under and in compliance with the terms of this Letter of Credit shall be duly honored upon presentation as specified.

Partial drawings and multiple drawings are permitted hereunder.

The amount which may be drawn by you under this Letter of Credit shall be automatically reduced by the amount of any drawings paid through the Issuing Bank referencing this Letter of Credit No. _____.

This Letter of Credit shall be governed by the Uniform Customs and Practice for Documentary Credits, 2007 Revision, International Chamber of Commerce Publication No. 600 (the "UCP"), except to the extent that the terms hereof are inconsistent with the provisions of the UCP, including but not limited to Articles 13(b) and 17 of the UCP, in which case the terms of this Letter of Credit shall govern.

With respect to Article 13(b) of the UCP, the Issuing Bank shall have a reasonable amount of time, not to exceed five (5) banking days following the date of its receipt of documents from the Beneficiary, to examine the documents and determine whether to take up or refuse the documents and to inform the Beneficiary accordingly.

This Letter of Credit shall expire at the close of business on [date that is beyond the statutory period for filing a lien after the contract end date].

In the event of an Act of God, act of terrorism, riot, civil commotion, insurrection, war or any other cause beyond our control that interrupts our business (collectively, an "Interruption Event") and causes the place for presentation of this Letter of Credit to be closed for business on the last day for presentation, the expiration date of this Letter of Credit will be automatically extended without amendment to a date thirty (30) calendar days after the place for presentation reopens for business.

This credit is transferable in its entirety (but not in part). Any transferee shall succeed to all of the rights of the Transferor hereunder. A Transfer of the right to draw under this credit shall be effected by our receipt of this credit and a signed completed request for transfer in the form of Attachment 2 hereto. We shall effect the transfer and advise the parties accordingly.

[BANK SIGNATURE]

FORM OF LETTER OF CREDIT DRAWING CERTIFICATE

The undersigned hereby certifies to [Bank] (“Issuing Bank”), with reference to the Irrevocable Standby Letter of Credit No. _____ (“Letter of Credit”) by the Issuing Bank in favor of PacifiCorp, an Oregon corporation (together with any transferee under the Letter of Credit, called “Beneficiary”), that because [check at least one (1) of the following, as applicable]:

(1) a Contractor Event of Default has occurred or is continuing under the [EPC contract name] (as defined in the [EPC contract name], dated as of _____, 2012), between Account Party and Beneficiary) or failure to pay Beneficiary when due and payable any amounts respecting Delay Liquidated Damages (as defined within [EPC contract name]);

(2) the Letter of Credit is due to expire within thirty (30) days and Beneficiary and Account Party have not mutually agreed in writing to an extension thereof; or

(3) the Letter of Credit has ceased to satisfy the requirements for an Acceptable Letter of Credit (as defined in the [EPC contract name]).

Beneficiary is drawing upon the Letter of Credit in an amount equal to \$_____, which amount is not in excess of the remaining undrawn portion of the Letter of Credit as of the date of this Certificate.

Name of Beneficiary: _____

By: _____

Name: _____

Title: _____

_____, 20__

EXHIBIT W
Attachment 2

TRANSFER OF LETTER OF CREDIT IN ITS ENTIRETY
TO STANDBY LETTER OF CREDIT NO. _____

TO: _____ FROM: _____
RE: LETTER OF CREDIT NO. _____ ISSUED BY: _____

We, the undersigned beneficiary, hereby authorize and direct you to transfer irrevocably the referenced letter of credit in its entirety

To: _____
Whose Address is: _____

We are returning the original instrument, including original amendments, if any, to you herewith in order that you may deliver it to the transferee together with your customary Letter of Transfer.

Any amendments to the Letter of Credit that you may issue or receive are to be advised by you directly to the transferee, and the documents (including drafts if required under the Credit) of the transferee are to be processed by you (or any intermediary) without our intervention and without any further responsibility on your part to us.

We understand that pursuant to U.S. law, you are prohibited from issuing, transferring, accepting or paying letters of credit to any party or entity identified by the Office of Foreign Assets Control, U.S. Department of Treasury, or subject to the denial of export privileges by the U.S. Department of Commerce.

****THE SIGNATURE OF THE BENEFICIARY WITH TITLE AS STATED CONFORMS WITH THAT ON FILE WITH US AND IS AUTHORIZED FOR THE EXECUTION OF SUCH INSTRUCTION.**

_____		_____
(Official Bank Stamp)		(Name of Beneficiary)
_____	By:	_____
(Name of Bank)		(Authorized Signature)
_____		_____
(Address of Bank)		(Title)
_____		_____
(Authorized Signature)		(Telephone Number)
_____	Date:	_____
(Title)		

(Telephone Number)		
Date: _____		

EXHIBIT X
NERC CIPS FORMS

Background Check Criteria

The Company has a Badge and Access Standards policy which outlines company standards, procedures, compliance policies and workforce responsibilities regarding badges and access to all PacifiCorp controlled areas. Access to Company's Facilities is subject to this policy and requires access to be granted on an as-needed basis after completion of the required background check and training requirements.

In addition, the Company is required to comply with the mandatory Critical Infrastructure Protection Standards (CIPS) issued by the North American Electric Reliability Corporation (NERC) and approved by the Federal Energy Regulatory Commission on January 17, 2008. These CIPS were adopted to ensure that electric utilities, as part of the nation's critical infrastructure, are able to sustain and secure against vulnerabilities that may threaten the electric system and the utilities that operate it. Specifically, CIP-001 through CIP-009 provide a cyber security framework for the identification and protection of assets critical to the reliable operation of the electric system.

In order to ensure compliance with CIPS and the Company's access policy, Company requires that all personnel who will have authorized unescorted physical access to Company's Facilities and/or authorized cyber or unescorted physical access to CIPS Covered Assets (including control centers, substations, generation plants, critical cyber assets, etc.) have the appropriate security clearance and security training.

Individuals who are considered "restricted persons" may not have unescorted access to Company's Facilities or CIPS Covered Assets. An individual will be considered a "restricted person" if the person meets any of the following criteria:

- Is currently under indictment for a crime punishable by imprisonment for a term exceeding one year;
- Has been convicted (within the past seven years) in any court of a crime punishable by imprisonment for a term exceeding one year;
- Is currently a fugitive from justice; or
- Is an alien illegally or unlawfully in the United States.

If an individual's background check indicates that he/she meets any of the above criteria, the individual will be considered a "restricted person" and unescorted access to Company's Facilities or CIPS Covered Assets will not be authorized.



Background Check Requirements:

- 1) Background checks shall be updated no less frequently than every seven (7) years or upon request by Company, and shall, at a minimum, consist of a social security number verification and seven-year criminal background check, including all convictions for a crime punishable by imprisonment for a term exceeding one year.

Drug and Alcohol Screening Requirements:

- 1) Drug test shall, at a minimum, be a five (5) Panel Drug Test, which should be recognizable at testing labs as a "SamHSA5 panel at 50NG – THC cut-off".

Exhibit Y
Contractor Supplier Designation

Firm (Name and Address)	Work, Material, or Service (Provide Brief Description)	Percent of Total Proposal Price	Dollar Amount of Firm's Work, Material or Service
Proposed Prime Contractor:	Gas turbines, Steam turbine	Percent of Total Proposal	Amount of Total Proposal
	Heat recovery steam generators	Percent of Total Proposal	Amount of Total Proposal
	Air Cooled Condenser	Percent of Total Proposal	Amount of Total Proposal
	Pre-engineered metal buildings	Percent of Total Proposal	Amount of Total Proposal
	Fire protection system	Percent of Total Proposal	Amount of Total Proposal
	Heavy hauling and rigging	Percent of Total Proposal	Amount of Total Proposal
	Field erected tanks	Percent of Total Proposal	Amount of Total Proposal
	Boiler Feed Pumps	Percent of Total Proposal	Amount of Total Proposal

Exhibit Y
Contractor Supplier Designation

Firm (Name and Address)	Work, Material, or Service (Provide Brief Description)	Percent of Total Proposal Price	Dollar Amount of Firm's Work, Material or Service
	Heat tracing	Percent of Total Proposal	Amount of Total Proposal
	Overhead line work	Percent of Total Proposal	Amount of Total Proposal
	Water Treatment Equipment	_____% Percent of Total Proposal	\$ _____ Amount of Total Proposal
		_____% Percent of Total Proposal	\$ _____ Amount of Total Proposal
		_____% Percent of Total Proposal	\$ _____ Amount of Total Proposal
		_____% Percent of Total Proposal	\$ _____ Amount of Total Proposal
		_____% Percent of Total Proposal	\$ _____ Amount of Total Proposal

EXHIBIT Z
Baseline Materials

- 1.0** Contractor shall provide a list of documents as “Baseline Materials” as agreed to between Contractor and Owner. Documents identified as Baseline Materials are:.