

POWER PURCHASE AGREEMENT

BETWEEN

YAKIMA-TIETON IRRIGATION DISTRICT (Orchard Project)

(an existing, on-system Qualifying Facility, less than or equal to 2 MW Facility Capacity
Rating in Washington)

AND

PACIFICORP

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THIS AGREEMENT, entered into between Yakima-Tieton Irrigation District, a Washington irrigation district "**Seller**" and PacifiCorp, an Oregon corporation and a regulated public utility, "**PacifiCorp**." Each of Seller and PacifiCorp may be referred to individually as a "**Party**" or collectively as the "**Parties**."

Recitals

A. Seller owns, operates and maintains a hydroelectric facility for the generation of electric power, including Interconnection Facilities, located at Orchard Avenue in Yakima, Yakima County, Washington with a **Facility Capacity Rating** of 1,441 kilowatts (kW) as further described in **Exhibit A** and **Exhibit B** (the "**Facility**"); and

B. The Parties desire to enter into this Agreement to replace in its entirety the power purchase agreement dated December 20, 2012 (the "**Previous PPA**"), which replacement will occur on 00:00 Pacific Prevailing Time of the Effective Date; and

C. Seller intends to continue to deliver Net Output under this Agreement; and

D. Seller intends to continue to operate the Facility as a Qualifying Facility, and is deemed to have established commercial operation under the Previous PPA; and

E. Seller estimates that the average annual Net Energy to be delivered by the Facility to PacifiCorp is 3,179,505 kilowatt-hours (kWh) pursuant to the monthly delivery schedules in **Exhibit D** hereto, which amount of energy PacifiCorp will include in its resource planning; and

F. Seller shall (choose one) ☒ sell all Net Output to PacifiCorp and purchase its full electric requirements from PacifiCorp ☐ sell Net Output surplus to its needs at the Facility site to PacifiCorp and purchase partial electric requirements service from PacifiCorp; and

G. Seller shall obtain any necessary retail electric service from Pacific Power pursuant to the applicable retail electric service schedule; and

H. PacifiCorp intends to designate Seller's Facility as a Network Resource for the purposes of serving Network Load; and

I. This Agreement is a "New QF Contract" under the PacifiCorp Inter-Jurisdictional Cost Allocation Revised Protocol; and

NOW, THEREFORE, the Parties mutually agree as follows:

SECTION 1: Term

1.1 This Agreement shall become effective upon the later of the execution by both Parties or the expiration date of the Previous PPA (“**Effective Date**”).

1.2 By the Effective Date, Seller shall provide PacifiCorp with (a) a copy of an executed Generator Interconnection Agreement, or wheeling agreement, as applicable, which shall be consistent with all material terms and requirements of this Agreement and (b) the Required Facility Documents.

1.3 By the date fifteen (15) days after the Effective Date, Seller shall provide security required under Section 5.2, as applicable.

1.4 Except as otherwise provided herein, this Agreement shall terminate at 24:00 Pacific Prevailing Time on December 31, 2020 (“**Expiration Date**”).

SECTION 2: Purchase Prices

2.1 Energy Purchase Price. Except as provided in Section 2.3, commencing immediately after the Effective Date, PacifiCorp will pay Seller the capacity and energy pricing for Net Output in accordance with Schedule 37 as set forth in **Appendix C (“Contract Price”)**.

2.2 If Seller chooses to receive compensation for energy only, Seller shall not be subject to Sections 4 and 5, below, nor Section A6.3, below. Seller has selected the following option (Seller to initial one):

 X Seller is being compensated for capacity (Sections 4, 5, and A6.3 apply)

 Seller is not being compensated for capacity (Sections 4, 5, and A6.3 do not apply)

2.3 Inadvertent Energy. PacifiCorp may accept Inadvertent Energy at its sole discretion, but will not purchase or pay for Inadvertent Energy.

SECTION 3: Delivery of Power

3.1 Delivery of Net Output. Unless otherwise provided herein, commencing immediately after the Effective Date, PacifiCorp will purchase and Seller will sell all Net Output from the Facility.

3.2 No Sales to Third Parties. During the term of this Agreement, Seller shall not sell any Net Output from the Facility to any entity other than PacifiCorp.

3.3 Minimum and Maximum Annual Delivery. Seller shall make available from the Facility a minimum of 2,657,569 kWh of Net Output during each Contract Year (“**Minimum Annual Delivery**”), which corresponds to a Projected Annual Capacity Factor of 21%. Seller

shall make available from the Facility a maximum of 3,727,130 kWh of Net Output during each Contract Year (“**Maximum Annual Delivery**”). Seller has explained its basis for determining the Minimum and Maximum Annual Delivery amounts in **Exhibits D, E-1, and E-2**. For partial years and any Contract Year in which the Facility was prevented from generating electricity for reasons of Force Majeure or Net Output is curtailed pursuant to Section A2.3, unless due to the fault of Seller, Minimum and Maximum Annual Delivery amounts will be reduced on a *pro rata* basis for such Contract Year.

3.4 Seller shall not increase the Facility Capacity Rating above that specified in Recital A through any means including, but not limited to, replacement of, modification of, or addition of existing equipment. To the extent not otherwise provided in the Generator Interconnection Agreement, all costs associated with the modifications to Interconnection Facilities, the System, or PacifiCorp’s electric system occasioned by or related to the interconnection of the Facility with PacifiCorp’s system, or any increase in generating capability of the Facility, shall be borne by Seller.

[Section 4 applies only if Seller elected to be compensated for capacity in Section 2.]

SECTION 4: Liquidated Damages

4.1 Output Shortfalls. In the event Seller fails to deliver at least the Minimum Annual Delivery, then Seller shall pay PacifiCorp, as liquidated damages, the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price for any energy that Seller was obligated to deliver but did not deliver during the Contract Year; *provided, however*, that the positive difference obtained by subtracting the Contract Price from the Replacement Price shall not exceed the Contract Price.

4.2 Stipulation to Liquidated Damages for Underdelivery. Each Party agrees that (a) the damages that PacifiCorp would incur due to the Facility’s failure to deliver Minimum Annual Delivery would be difficult or impossible to predict with certainty, (b) the liquidated damages contemplated by this provision are a fair and reasonable calculation of such damages, and (c) the required payment by Seller of such liquidated damages shall be PacifiCorp’s sole remedy for such deficiency in Net Output.

4.3 Recoupment of Liquidated Damages. Amounts owed by Seller pursuant to this Section 4 shall be due within five (5) business days after any invoice from PacifiCorp for the same and any amounts owing after the due date thereof shall bear interest pursuant to Section A5.3. If Seller has posted Default Security, PacifiCorp may draw upon that security to satisfy any damages, above. If Seller has not posted Default Security, or if PacifiCorp has exhausted the Default Security, PacifiCorp may collect any remaining amount owing by partially withholding future payments to Seller over a reasonable period of time, which period shall not be less than the period over which the default occurred. PacifiCorp and Seller shall work together in good faith to establish the period, and monthly amounts, of such withholding so as to avoid Seller’s default on its commercial or financing agreements necessary for its continued operation of the Facility.

[Section 5 applies only if Seller elected to be compensated for capacity in Section 2.]

SECTION 5: Security

5.1 Creditworthiness Warranties. Seller warrants all of the following:

- 5.1.1 Neither the Seller nor any of its principal equity owners is or has within the past two (2) years been the debtor in any bankruptcy proceeding, is unable to pay its bills in the ordinary course of its business, or is the subject of any legal or regulatory action, the result of which could reasonably be expected to impair Seller's ability to own and operate the Facility in accordance with the terms of this Agreement.
- 5.1.2 Seller has not at any time defaulted in any of its payment obligations for electricity purchased from PacifiCorp.
- 5.1.3 Seller is not in default under any of its other agreements and is current on all of its financial obligations.
- 5.1.4 Seller owns, and will continue to own for the term of this Agreement, all right, title and interest in and to the Facility, free and clear of all liens and encumbrances other than liens and encumbrances related to third-party financing of the Facility.

 X **Seller initial here to adopt Creditworthiness Warranties in this Section 5.1**

5.2 If Seller does not adopt the Creditworthiness Warranties in Section 5.1, Seller shall post one of the following types of security, at Seller's election. Seller has selected the following option (Seller to initial one):

 X **Seller meets the Credit Requirements.**

 Seller will provide Cash Escrow: Seller shall deposit in an escrow account established by PacifiCorp in a banking institution acceptable to PacifiCorp, the Default Security. Such sum shall earn interest at the rate applicable to money market deposits at such banking institution from time to time. To the extent PacifiCorp receives payment from the Default Security, Seller shall, within fifteen (15) days, restore the Default Security as if no such deduction had occurred.

 Seller will provide a Letter of Credit: Seller shall post and maintain in an amount equal to the Default Security: (a) a guaranty from a party that satisfies the Credit Requirements, in a form acceptable to PacifiCorp in its discretion, or (b) a Letter of Credit in favor of PacifiCorp, in a form acceptable to PacifiCorp in its discretion. To the extent PacifiCorp receives payment from the Default Security, Seller shall, within fifteen (15) days, restore the Default Security as if no such deduction had occurred.

Seller will grant a Senior Lien: Seller shall grant PacifiCorp a senior, unsubordinated lien on the Facility and Related Assets as security for performance of this Agreement by executing, acknowledging and delivering a security agreement, a financing statement, a deed of trust or a mortgage, in a recordable form (each in a form satisfactory to PacifiCorp in the reasonable exercise of its discretion) and any other documents necessary in PacifiCorp's discretion to create, vest or maintain PacifiCorp's senior, unsubordinated lien interest. For the sole purpose of example, the "Facility and Related Assets" may include but are not limited to equipment and structures, products of the Facility whether electricity or other, fuel supply agreements, rights to motive force, and real property rights and attachments thereto. PacifiCorp alone shall determine the extent of the Facility and Related Assets to be included in the senior lien in the reasonable exercise of its discretion. Pending delivery of the senior lien to PacifiCorp, Seller shall not cause or permit the Facility or its assets to be burdened by liens or other encumbrances that would be superior to PacifiCorp's, other than workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.

5.3 Amount of Default Security. Unless otherwise agreed to by the Parties in writing, "Default Security" means the amount of either a Letter of Credit or cash placed in an escrow account sufficient to replace twelve (12) average months of replacement power costs over the term of this Agreement. Default Security shall be calculated by taking the average, over the term of this Agreement, of the positive difference between (a) the monthly forward power prices at Mid-Columbia market index (as determined by PacifiCorp in good faith using information from a commercially reasonable independent source), multiplied by 110%, minus (b) the average of the avoided cost prices specified in Schedule 37, and multiplying such difference by (c) the Minimum Annual Delivery; provided, however, the amount of Default Security shall in no event be less than the amount equal to the payments PacifiCorp would make for three (3) average months based on Seller's average monthly volume over the term of this Agreement and utilizing the average avoided cost prices specified in Schedule 37. Such amount shall be fixed at the Effective Date of this Agreement. Using this methodology, the Parties have agreed that the amount of Default Security is \$0 (enter amount, even if Seller did not elect to provide either cash escrow or Letter of Credit).

5.4 Material Adverse Change. PacifiCorp may require Seller to post security, in any form above, in the event of a Material Adverse Change, *provided, however*, that in the event Seller's obligation to post Default Security arises solely from Seller's delinquent performance of construction-related financial obligations, upon Seller's request, PacifiCorp may excuse Seller from such obligation in the event Seller has negotiated financial arrangements with its construction lenders that mitigate Seller's financial risks to PacifiCorp's reasonable satisfaction.

SECTION 6: Notices

6.1 All notices except as otherwise provided in this Agreement shall be in writing, shall be directed as follows and shall be considered delivered if delivered in person or when

deposited in the U.S. Mail, postage prepaid by certified or registered mail and return receipt requested.

Notices	PacifiCorp	Seller
All Notices	PacifiCorp 825 NE Multnomah Street Portland, OR 97232 Attn: Contract Administration, Suite 600 E-mail: SmallQF@PacifiCorp.com Phone: (503) 813 - 5380 Facsimile: (503) 813 - 6291 Duns: 00-790-9013 Federal Tax ID Number: 93-0246090	Mr. Rick Dieker Secretary-Manager Yakima-Tieton Irrigation District 470 Camp 4 Road Yakima, WA 98908 Phone: (509) 678-4101 Facsimile: (509) 678-5730 Email: Rick Dieker [rickdieker@yvn.com]
All Invoices:	(same as street address above) Attn: Back Office, Suite 700 Phone: (503) 813 - 5578 Facsimile: (503) 813 -5580	Same as above
Scheduling:	(same as street address above) Attn: Resource Planning, Suite 600 Phone: (503) 813 - 6090 Facsimile: (503) 813 - 6265	Same as above
Payments:	(same as street address above) Attn: Back Office, Suite 700 Phone: (503) 813 - 5578 Facsimile: (503) 813 - 5580	Same as above
Wire Transfer:	Bank One N.A. ABA: ACCT: NAME: PacifiCorp Wholesale	Same as above
Credit and Collections:	(same as street address above) Attn: Credit Manager, Suite 700 Phone: (503) 813 - 5684 Facsimile: (503) 813 - 5609	Same as above
With Additional	(same as street address above)	Same as above

Notices	PacifiCorp	Seller
Notices of an Event of Default or Potential Event of Default to:	Attn: PacifiCorp General Counsel, Suite 600 Phone: (503) 813 - 5029 Facsimile: (503) 813 - 6761	

The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section 6.

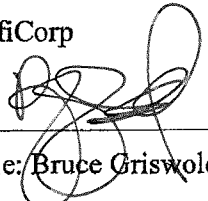
SECTION 7: Integration

7.1 The appendices and exhibits referred to herein and attached hereto comprise part of and are hereby incorporated into this Agreement. **Appendices A** "General Terms and Conditions", **B** "Definitions", **C** "Contract Pricing", and **D** "Commission Approved Tariff" are hereby incorporated into this Agreement. Also hereby incorporated into this Agreement are **Exhibits A** "Description of Seller's Facility", **B** "Point of Delivery/Parties' Interconnection Facilities", **C** "Required Facility Documents", **D** "Energy Delivery Schedule", **E-1** "Motive Force Plan", **E-2** "Engineer's Certification" and **F** "Seller Authorization to Release Generation Data to PacifiCorp".

7.2 In the event of a conflict between two or more provisions in this Agreement, the terms contained in Sections 1 through 7 shall control; in the event of a conflict between this Agreement and any applicable tariff, the tariff shall control.

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

PacifiCorp

By: 

Name: Bruce Griswold

Title: Director, Short Term Origination and
QF Contracts

Date: 4/21/2015

Bws 3-30-2015

Yakima-Tieton Irrigation District:

By: 

Name: Rick Dieker

Title: Secretary-Manager

Date: 4/30/2015

APPENDIX A: General Terms and Conditions

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SECTION A1: REPRESENTATIONS AND WARRANTIES

A1.1 PacifiCorp represents, covenants, and warrants to Seller that:

- A1.1.1 PacifiCorp is duly organized and validly existing under the laws of the state of Oregon.
- A1.1.2 PacifiCorp has the requisite corporate power and authority to enter into this Agreement and to perform according to the terms of this Agreement.
- A1.1.3 PacifiCorp has taken all corporate actions required to be taken by it to authorize the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby.
- A1.1.4 The execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on PacifiCorp or any valid order of any court, or any regulatory agency or other body having authority to which PacifiCorp is subject.
- A1.1.5 This Agreement is a valid and legally binding obligation of PacifiCorp, enforceable against PacifiCorp in accordance with its terms (except as the enforceability of this Agreement may be limited by bankruptcy, insolvency, bank moratorium or similar laws affecting creditors' rights generally and laws restricting the availability of equitable remedies and except as the enforceability of this Agreement may be subject to general principles of equity, whether or not such enforceability is considered in a proceeding at equity or in law).

A1.2 Seller represents, covenants, and warrants to PacifiCorp that:

- A1.2.1 Seller is an irrigation district duly organized and validly existing under the laws of Washington.
- A1.2.2 Seller has the requisite power and authority to enter into this Agreement and to perform according to the terms hereof, including all required regulatory authority to make wholesale sales from the Facility in its capacity as a Qualifying Facility.
- A1.2.3 Seller's shareholders, directors and officers have taken all actions required to authorize the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby.
- A1.2.4 The execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on Seller or any valid order of any court, or any regulatory agency or other body having authority to which Seller is subject.
- A1.2.5 This Agreement is a valid and legally binding obligation of Seller, enforceable against Seller in accordance with its terms (except as the enforceability of this Agreement may be limited by bankruptcy, insolvency, bank moratorium or similar laws affecting creditors' rights generally and laws restricting the availability of equitable remedies and except as the enforceability of this Agreement may be subject to general principles of equity, whether or not such enforceability is considered in a proceeding at equity or in law).
- A1.2.6 The Facility is and shall for the term of this Agreement continue to be a QF, and Seller will operate the Facility in a manner consistent with its FERC QF certification. Seller has provided to PacifiCorp the appropriate QF certification, which may include a Federal Energy Regulatory Commission ("**FERC**") self-certification prior to PacifiCorp's execution of this Agreement. If at any time during the term of this Agreement PacifiCorp has reason to believe that Seller no longer qualifies as a QF, PacifiCorp may identify the basis for such belief and require Seller to demonstrate that the Facility is a lawful QF. If, upon review of such data and documentation, PacifiCorp continues to believe that the Facility is not a lawful QF, then PacifiCorp may require that Seller, at Seller's cost, provide PacifiCorp a written legal opinion, from an attorney (a) in good standing in the state in which the Facility is located and (b) who has no economic relationship, association or nexus with the Seller or the Facility, stating that the Facility is a QF and has been operated lawfully as a QF under this Agreement. The attorney's opinion shall provide sufficient documentation to demonstrate that Seller has maintained and will continue to maintain the Facility as a QF

- A1.2.7 In entering into this Agreement and the undertaking by Seller of the obligations set forth herein, Seller has independently (or through its own retained consultants) investigated and determined that it is capable of performing hereunder and has not relied upon the advice, experience or expertise of PacifiCorp in connection with the transactions contemplated by this Agreement.
- A1.2.8 All information about the Facility set forth in Exhibit A, Exhibit B, and Exhibit C has been verified by Seller and is true and complete.
- A1.2.9 Seller has all Required Facility Documents for the Facility and will maintain such Required Facility Documents for the term of this Agreement.

A1.3 Notice. If at any time during this Agreement, any Party obtains actual knowledge of any event or information which would have caused any of the representations and warranties in this Section A1 to have been materially untrue or misleading when made, such Party shall provide the other Party with written notice of the event or information, the representations and warranties affected, and the action, if any, which such Party intends to take to make the representations and warranties true and correct. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

SECTION A2: OPERATION AND CONTROL

A2.1 As-Built Supplement. Upon completion of any construction affecting the Facility, Seller shall provide PacifiCorp an As-built Supplement bearing the stamp of a Licensed Professional Engineer that accurately depicts the Facility as built. The As-built Supplement must be reviewed and approved by PacifiCorp, which approval shall not unreasonably be withheld, conditioned or delayed.

A2.2 Safe Operation. Seller shall operate and maintain the Facility in a safe manner in accordance with the Generator Interconnection Agreement, Prudent Electrical Practices and in accordance with the requirements of all applicable federal, state and local laws and the National Electric Safety Code as such laws and code may be amended from time to time. PacifiCorp shall have the right to inspect the Facility to confirm that Seller is operating the Facility in accordance with the provisions of this Section A2 upon reasonable notice to Seller. Seller is solely responsible for the operation and maintenance of the Facility. PacifiCorp shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility.

A2.3 Energy Acceptance; Curtailment. PacifiCorp shall not be obligated to purchase, receive, pay for, or pay any damages associated with, Net Output (or associated Production Tax Credits or Environmental Attributes, if any) if such Net Output (or associated Production Tax Credits or Environmental Attributes) is not delivered to the System or Point of Delivery due to any of the following: (a) the interconnection between the Facility and the System is disconnected, suspended or interrupted, in whole or in part, consistent with the terms of the Generator Interconnection Agreement, (b) the Transmission Provider or Network Service Provider directs a general curtailment, reduction, or redispatch of generation in the area (which would include the Net Output) for any reason, even if such curtailment or redispatch directive is

carried out by PacifiCorp, which may fulfill such directive by acting in its sole discretion; or if PacifiCorp curtails or otherwise reduces the Net Output in order to meet its obligations to the Transmission Provider or Network Service Provider to operate within system limitations, (c) the Facility's Net Output is not received because the Facility is not fully integrated or synchronized with the System, or (d) an event of Force Majeure prevents either Party from delivering or receiving Net Output.

A2.3.1 Upon termination of each curtailment, each Party having knowledge of the curtailment shall transmit to the other Party, within ten (10) business days, a written statement documenting the cause of curtailment, the time curtailment commenced, the amount of curtailment during each hour of the curtailment period, and the time curtailment ended.

A2.4 PacifiCorp as Merchant. Seller acknowledges that PacifiCorp, acting in its merchant capacity function as purchaser under this Agreement, has no responsibility for or control over PacifiCorp Transmission or any successor Transmission Provider and that interaction between PacifiCorp and PacifiCorp Transmission are at arm's length pursuant to the Tariff and FERC Order No. 888 and related regulation.

A2.5 Outages.

A2.5.1 Planned Outages. Except as otherwise provided herein, Seller shall not schedule Planned Outage during any portion of the months of December, January, July, and August, except to the extent a Planned Outage is reasonably required to enable a vendor to satisfy a guarantee requirement in a situation in which the vendor is not otherwise able to perform the guarantee work at a time other than during one of the months specified above. Seller shall, in **Exhibit D**, provide PacifiCorp with an annual forecast of Planned Outages for each Contract Year at least one (1) month, but no more than three (3) months, before the first day of that Contract Year, and shall promptly update such schedule, or otherwise change it only, to the extent that Seller is reasonably required to change it in order to comply with Prudent Electrical Practices. Seller shall not schedule more than one hundred fifty (150) hours of Planned Outages for each calendar year. Seller shall not schedule any maintenance of Interconnection Facilities during such months, without the prior written approval of PacifiCorp, which approval may be withheld by PacifiCorp in its sole discretion.

A2.5.2 Maintenance Outages. If Seller reasonably determines that it is necessary to schedule a Maintenance Outage, Seller shall notify PacifiCorp of the proposed Maintenance Outage as soon as practicable but in any event at least five (5) days before the outage begins (or, if the Facility is a Wind Facility, such shorter period to which PacifiCorp may reasonably consent in light of then existing wind conditions). Upon such notice, the Parties shall plan the Maintenance Outage to mutually accommodate the reasonable requirements of Seller and the service obligations of PacifiCorp. Seller shall take all reasonable measures and use best efforts consistent with Prudent Electrical Practices to not

schedule any Maintenance Outage during July and August. Seller shall include in such notice of a proposed Maintenance Outage the expected start date and time of the outage, the amount of generation capacity of the Facility that will not be available, and the expected completion date and time of the outage. Seller may provide notices under this Section A2.5.2 orally. Seller shall confirm any such oral notification in writing as soon as practicable. PacifiCorp shall promptly respond to such notice and may request reasonable modifications in the schedule for the outage. Seller shall use all reasonable efforts to comply with PacifiCorp's request to modify the schedule for a Maintenance Outage if such modification has no substantial impact on Seller. Seller shall notify PacifiCorp of any subsequent changes in generation capacity of the Facility during such Maintenance Outage and any changes in the Maintenance Outage completion date and time. Seller shall take all reasonable measures and exercise its best efforts consistent with Prudent Electrical Practices to minimize the frequency and duration of Maintenance Outages.

A2.5.3 Forced Outages. Seller shall promptly provide to PacifiCorp an oral report, via telephone to a number specified by PacifiCorp, of any Forced Outage of the Facility. Such report shall include the amount of generation capacity of the Facility that will not be available because of the Forced Outage and the expected return date and time of such generation capacity. Seller shall promptly update the report as necessary to advise PacifiCorp of changed circumstances. If the Forced Outage resulted in more than 15% of the Facility Capacity Rating of the Facility being unavailable, Seller shall confirm the oral report in writing as soon as practicable. Seller shall take all reasonable measures and exercise its best efforts consistent with Prudent Electrical Practices to avoid Forced Outages and to minimize their duration.

A2.6 Scheduling.

A2.6.1 Cooperation and Standards. With respect to any and all scheduling requirements in this Agreement, (a) Seller shall cooperate with PacifiCorp with respect to scheduling Net Output, and (b) each Party shall designate authorized representatives to communicate with regard to scheduling and related matters arising hereunder.

A2.7 Delivery Exceeding the Maximum GIA Delivery Rate. Seller shall not deliver energy from the Facility to the Point of Delivery at a rate that exceeds the Maximum GIA Delivery Rate. Seller's failure to limit such deliveries to the Maximum GIA Delivery Rate shall be a breach of a material obligation subject to A6.1.9.

A2.8 Access Rights. Upon reasonable prior notice and subject to the normal prudent safety requirements of Seller, and Requirements of Law relating to workplace health and safety, Seller shall provide PacifiCorp and its authorized agents, employees and inspectors with reasonable access to the Facility for purposes of: (a) reading or testing metering equipment, (b)

as necessary to witness any acceptance tests, (c) for purposes of implementing or performing the Agreement, and (d) for other reasonable purposes at the reasonable request of PacifiCorp.

SECTION A3: FUEL/MOTIVE FORCE

Prior to the Effective Date of this Agreement, Seller provided to PacifiCorp a fuel or motive force plan acceptable to PacifiCorp in its reasonable discretion and attached hereto as **Exhibit E-1**, together with a certification from a Licensed Professional Engineer to PacifiCorp attached hereto as **Exhibit E-2**, certifying that the implementation of the fuel or motive force plan can reasonably be expected to provide fuel or motive force to the Facility for the duration of this Agreement adequate to generate power and energy in quantities necessary to deliver the Minimum Annual Delivery set forth by Seller in Section 3.3. The motive force plan included, or was accompanied by, all Required Facility Documents relating to Seller's right to use the motive force as reasonably determined by PacifiCorp, which accompanying documents, if any, are attached hereto as part of **Exhibit E-1**.

SECTION A4: METERING

A4.1 Metering Equipment. PacifiCorp shall design, furnish, install, own, inspect, test, maintain and replace all metering equipment required pursuant to the Generator Interconnection Agreement.

A4.1.1 Location of Metering Equipment. Metering shall be performed at the location and in the manner specified in **Exhibit B** and the Generator Interconnection Agreement. All quantities of energy purchased hereunder shall be adjusted to account for electrical losses, if any, between the point of metering and the Point of Delivery, so that the purchased amount reflects the net amount of power flowing into PacifiCorp's system at the Point of Delivery.¹ The loss adjustment shall be a reduction of 2% of the kWh energy production recorded on the Facility output meter until actually measured and calibrated at the meter by PacifiCorp and documented in a signed letter to Seller from PacifiCorp's QF Contracts Administrator.

A4.1.2 Maintenance of Metering Equipment. PacifiCorp shall periodically inspect, test, repair and replace the metering equipment as provided in the Generator Interconnection Agreement or at the request of Seller if Seller has reason to believe metering may be off and requests an inspection in writing. Seller shall bear the cost for any Seller requests. If any of the inspections or tests disclose an error exceeding two percent (2%), either fast or slow, proper correction, based upon the inaccuracy found, shall be made of previous readings for the actual period during which the metering equipment rendered inaccurate measurements if that period can be ascertained. If the actual period cannot be ascertained, the proper correction shall be made to the measurements taken during the time the metering equipment was in service since last tested, but not

¹ If station service is supplied via separate facilities, PacifiCorp will deduct station service from the metered facility output to calculate Net Output.

exceeding three (3) Billing Periods, in the amount the metering equipment shall have been shown to be in error by such test. Any correction in billings or payments resulting from a correction in the meter records shall be made in the next monthly billing or payment rendered.

A4.1.3 Costs of Metering Equipment. To the extent not otherwise provided in the Generator Interconnection Agreement, all of PacifiCorp's costs relating to all metering equipment installed to accommodate Seller's Facility shall be borne by Seller.

A4.2 Telemetering. Seller shall provide telemetering equipment and facilities capable of telephonic interrogation by PacifiCorp pursuant to the Generator Interconnection Agreement, and will operate such equipment to indicate Net Output.

SECTION A5: BILLINGS, COMPUTATIONS AND PAYMENTS

A5.1 Payment for Net Output. On or before the thirtieth (30th) day following the end of each Billing Period, PacifiCorp shall send to Seller payment for Seller's deliveries of Net Output to PacifiCorp in accordance with Section 2, together with computations supporting such payment. PacifiCorp may offset any such payment to reflect amounts owing from Seller to PacifiCorp pursuant to this Agreement, the Generator Interconnection Agreement, or any other agreement between the Parties. Any such offsets shall be separately itemized on the statement accompanying each payment to Seller.

A5.2 Corrections. PacifiCorp shall have up to thirty-six (36) months to adjust any payment made pursuant to Section A5.1. In the event PacifiCorp determines it has overpaid Seller (for Inadvertent Energy, calibration error, or otherwise), PacifiCorp may adjust Seller's future payment accordingly in order to correct the error in a reasonable time.

A5.3 Interest. Any amounts owing after the due date thereof shall bear daily interest at the Prime Rate plus two percent (2%) from the date due until paid; *provided, however*, that the interest rate shall at no time exceed the maximum rate allowed by applicable law.

A5.4 Disputed Amounts. If either Party, in good faith, disputes any amount due pursuant to an invoice rendered hereunder, such Party shall notify the other Party of the specific basis for the dispute and, if the invoice shows an amount due, shall pay that portion of the statement that is undisputed, on or before the due date. Except with respect to invoices provided under Section A5.2, any such notice shall be provided within two (2) years of the date of the invoice in which the error first occurred. If any amount disputed by such Party is determined to be due to the other Party, or if the Parties resolve the payment dispute, the amount due shall be paid within five (5) days after such determination or resolution, along with interest in accordance with Section A5.3.

A5.5 Audit Rights. Each Party, through its authorized representatives, shall have the right, at its sole expense upon reasonable notice and during normal business hours, to examine and copy the energy production and billing records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made hereunder or to verify the other Party's performance of its obligations hereunder. Upon request, each Party shall provide to the other Party statements evidencing the quantities of Net Output delivered at the Point of Delivery.

SECTION A6: DEFAULT AND REMEDIES

A6.1 The following events shall constitute defaults under this Agreement:

- A6.1.1 Non-Payment. Seller's failure to make a payment when due under this Agreement or post and maintain security in conformance with the requirements of Section 5 or maintain insurance in conformance with the requirements of Section A8 of this Agreement, if the failure is not cured within ten (10) business days after the non-defaulting Party gives the defaulting Party a notice of the default.
- A6.1.2 Breach of Representation. Breach by a Party of a representation or warranty set forth in this Agreement, if such failure or breach is not cured within thirty (30) days following written notice.
- A6.1.3 Default on Other Agreements. Seller's failure to cure any default under any commercial or financing agreements or instrument (including the Generator Interconnection Agreement) within the time allowed for a cure under such agreement or instrument.
- A6.1.4 Insolvency. A Party (a) makes an assignment for the benefit of its creditors; (b) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors, or has such a petition filed against it and such petition is not withdrawn or dismissed within sixty (60) days after such filing; (c) becomes insolvent; or (d) is unable to pay its debts when due.
- A6.1.5 Material Adverse Change. A Material Adverse Change has occurred with respect to Seller and Seller fails to provide such performance assurances as are reasonably requested by PacifiCorp, within fifteen (15) days from the date of such request.
- A6.1.6 Sale to Third-Party. Seller's sale of Net Output to an entity other than PacifiCorp, as prohibited by Section 3.2.
- A6.1.7 Non-Delivery. Unless excused by an event of Force Majeure, Seller's failure to deliver any Net Energy for three consecutive calendar months.
- A6.1.8 Underdelivery. If Seller's Facility has a Facility Capacity Rating of 100 kW or less, Seller's failure to satisfy the Minimum Annual Delivery obligation of Section 3.3 for two (2) consecutive years; else Seller's failure to satisfy the Minimum Annual Delivery obligation of Section 3.3 for one year.
- A6.1.9 A Party otherwise fails to perform any material obligation (including but not limited to failure by Seller to meet any deadline set forth in Sections 1.2 or 1.3 or both) imposed upon that Party by this Agreement if the failure is not cured within thirty (30) days after the non-defaulting Party gives the defaulting Party notice of the default; provided, however, that, upon written notice from the defaulting Party, this thirty (30) day period shall be extended by an additional ninety (90) days if (a) the failure

cannot reasonably be cured within the thirty (30) day period despite diligent efforts, (b) the default is capable of being cured within the additional ninety (90) day period, and (c) the defaulting Party commences the cure within the original thirty (30) day period and is at all times thereafter diligently and continuously proceeding to cure the failure.

A6.2 Notice; Termination.

A6.2.1 Notice of Default. In the event of any default hereunder, the non-defaulting Party must notify the defaulting Party in writing of the circumstances indicating the default and outlining the requirements to cure the default.

A6.2.2 Termination. If a Party fails to cure a pending default within 30 days of the notice of default described in Section A6.2.1 (unless another cure period is expressly provided in the Agreement) in accordance with the terms contained in the aforementioned notice, the non-defaulting Party may terminate this Agreement at its sole discretion by delivering written notice to the other Party and may pursue any and all legal or equitable remedies provided by law or pursuant to this Agreement. Such notice of termination is effective upon mailing in the U.S. Mail (consistent with the provisions of Section 6.1). The rights provided in this Section A6 are cumulative such that the exercise of one or more rights shall not constitute a waiver of any other rights. Further, the Parties may by mutual written agreement amend this Agreement in lieu of a Party's exercise of its right to terminate.

A6.2.3 PURPA Sales Subsequent to Termination. In the event this Agreement is terminated because of Seller's default and Seller wishes to again sell Net Output to PacifiCorp following such termination, PacifiCorp in its sole discretion may require that Seller shall do so subject to the terms of this Agreement, including but not limited to the Contract Price, until the Expiration Date. In the event Seller and PacifiCorp enter a new agreement that is subject to the terms of this Agreement, the Parties shall execute a new agreement containing the applicable terms from the this Agreement.

[Section A6.3 applies only if Seller elected to be compensated for capacity in Section 2]

A6.3 Termination Damages. If this Agreement is terminated as a result of Seller's default, Seller shall pay PacifiCorp the positive difference, if any, obtained by subtracting the Contract Price from the sum of the Replacement Price for the Minimum Annual Delivery that Seller was otherwise obligated to provide for a period of twenty-four (24) months following the date of termination, but not extending beyond the Expiration Date, plus any cost incurred for transmission purchased to deliver the replacement power to the Point of Delivery, and the estimated administrative cost to the utility to acquire replacement power. Amounts owed by Seller pursuant to this paragraph shall be due within five (5) business days after any invoice from

PacifiCorp for the same. If this Agreement is terminated because of Seller's default, PacifiCorp may foreclose upon any security provided pursuant to Section 5 to satisfy any amounts that Seller owes PacifiCorp arising from such default. Each Party agrees that (a) the damages that PacifiCorp would incur due to the Facility's failure to deliver Minimum Annual Delivery would be difficult or impossible to predict with certainty and (b) the liquidated damages contemplated by this provision are a fair and reasonable calculation of such damages.

SECTION A7: INDEMNIFICATION AND LIABILITY

A7.1 Indemnities.

A7.1.1 Indemnity by Seller. Seller shall release, indemnify and hold harmless PacifiCorp, its directors, officers, agents, and representatives against and from any and all loss, fines, penalties, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with (a) the energy delivered by Seller under this Agreement to and at the Point of Delivery, (b) any facilities on Seller's side of the Point of Delivery, (c) Seller's operation and/or maintenance of the Facility, or (d) arising from this Agreement, including without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property belonging to PacifiCorp, Seller or others, excepting only such loss, claim, action or suit as may be caused solely by the fault or gross negligence of PacifiCorp, its directors, officers, employees, agents or representatives.

A7.1.2 Indemnity by PacifiCorp. PacifiCorp shall release, indemnify and hold harmless Seller, its partners, officers, agents, lenders and representatives against and from any and all loss, fines, penalties, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with the energy delivered by Seller under this Agreement after the Point of Delivery, including without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property, excepting only such loss, claim, action or suit as may be caused solely by the fault or gross negligence of Seller, its partners, officers, employees, agents, lenders or representatives.

A7.2 No Dedication. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public, nor affect the status of PacifiCorp as an independent public utility corporation or Seller as an independent individual or entity.

A7.3 NO CONSEQUENTIAL DAMAGES. EXCEPT TO THE EXTENT SUCH DAMAGES ARE INCLUDED IN THE LIQUIDATED DAMAGES, DELAY DAMAGES, COST TO COVER DAMAGES OR OTHER SPECIFIED MEASURE OF DAMAGES EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, NEITHER PARTY SHALL BE

LIABLE TO THE OTHER PARTY FOR SPECIAL, PUNITIVE, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING ENVIRONMENTAL ATTRIBUTES AND PRODUCTION TAX CREDITS), WHETHER SUCH DAMAGES ARE ALLOWED OR PROVIDED BY CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, STATUTE OR OTHERWISE.

SECTION A8: INSURANCE

A8.1 Certificates. Prior to connection of the Facility to PacifiCorp's electric system, or another utility's electric system if delivery to PacifiCorp is to be accomplished by wheeling, Seller shall secure and continuously carry insurance in compliance with the requirements of this Section A8. Seller shall provide PacifiCorp insurance certificate(s) (of "ACORD Form" or the equivalent) certifying Seller's compliance with the insurance requirements hereunder upon the Effective Date and on each annual anniversary of the Effective Date or as otherwise requested by PacifiCorp. Commercial General Liability coverage written on a "claims-made" basis, if any, shall be specifically identified on the certificate. If requested by PacifiCorp, a copy of each insurance policy, certified as a true copy by an authorized representative of the issuing insurance company, shall be furnished to PacifiCorp.

A8.2 Required Policies and Coverages. Without limiting any liabilities or any other obligations of Seller under this Agreement, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A" by the A.M. Best Company the insurance coverage specified in Exhibit 1 to this Appendix.

SECTION A9: FORCE MAJEURE

A9.1 As used in this Agreement, "Force Majeure" or "an event of Force Majeure" means any cause beyond the reasonable control of the Seller or of PacifiCorp which, despite the exercise of due diligence, such Party is unable to prevent or overcome. By way of example, Force Majeure may include but is not limited to acts of God, flood, storms, wars, hostilities, civil strife, strikes, and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay or failure in the performance as a result of any action or inaction on behalf of a public authority which is in each case (i) beyond the reasonable control of such Party, (ii) by the exercise of reasonable foresight such Party could not reasonably have been expected to avoid and (iii) by the exercise of due diligence, such Party shall be unable to prevent or overcome. Force Majeure, however, specifically excludes the cost or availability of fuel or motive force to operate the Facility or changes in market conditions that affect the price of energy or transmission. If either Party is rendered wholly or in part unable to perform its obligation under this Agreement because of an event of Force Majeure, both Parties shall be excused from whatever performance is affected by the event of Force Majeure, provided that:

A9.1.1 the non-performing Party, shall, within two (2) weeks after the occurrence of the Force Majeure, give the other Party written notice describing the particulars of the occurrence, including the start date of the Force Majeure, the cause of Force Majeure, whether the Facility remains partially operational and the expected end date of the Force Majeure;

A9.1.2 the suspension of performance shall be of no greater scope and of no longer duration than is required by the Force Majeure;

A9.1.3 the non-performing Party uses its best efforts to remedy its inability to perform; and

A9.1.4 the non-performing Party shall provide prompt written notice to the other Party at the end of the Force Majeure event detailing the end date, cause thereof, damage caused thereby and any repairs that were required as a result of the Force Majeure event, and the end date of the Force Majeure.

A9.2 No obligations of either Party which arose before the Force Majeure causing the suspension of performance shall be excused as a result of the Force Majeure.

A9.3 Neither Party shall be required to settle any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to the Party's best interests.

A9.4 PacifiCorp may terminate the Agreement if Seller fails to remedy Seller's inability to perform, due to an event of Force Majeure, within six (6) months after the occurrence of the event.

SECTION A10: SEVERAL OBLIGATIONS

Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to impose a trust or partnership duty, obligation or liability between the Parties. If Seller includes two (2) or more parties, each such party shall be jointly and severally liable for Seller's obligations under this Agreement.

SECTION A11: CHOICE OF LAW

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

SECTION A12: PARTIAL INVALIDITY

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

SECTION A13: WAIVER

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

SECTION A14: GOVERNMENTAL JURISDICTION AND AUTHORIZATIONS

This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party or this Agreement. PacifiCorp's compliance with the terms of this Agreement is conditioned on Seller's submission to PacifiCorp prior to the Effective Date and Seller's

maintenance thereafter of copies of all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility. Seller shall provide to PacifiCorp, within five (5) business days of such request, copies of any local, state or federal license, permit or other approval that may be requested by PacifiCorp.

SECTION A15: REPEAL OF PURPA

This Agreement shall not terminate upon the repeal of the PURPA, unless such termination is mandated by federal or state law. If PURPA terminates during the term of this Agreement, Seller shall operate the Facility in conformance with the QF rules in effect prior to PURPA termination.

SECTION A16: SUCCESSORS AND ASSIGNS

This Agreement and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto, except that no assignment hereof by either Party shall become effective without the written consent of the other Party being first obtained. Such consent shall not be unreasonably withheld. Notwithstanding the foregoing, any entity with which PacifiCorp may consolidate, or into which it may merge, or to which it may convey or transfer substantially all of its electric utility assets, shall automatically, without further act, and without need of consent or approval by the Seller, succeed to all of PacifiCorp's rights, obligations, and interests under this Agreement. This article shall not prevent a financing entity with recorded or secured rights from exercising all rights and remedies available to it under law or contract. PacifiCorp shall have the right to be notified by the financing entity that it is exercising such rights or remedies.

SECTION A17: ENTIRE AGREEMENT

A17.1 This Agreement supersedes all prior inconsistent agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding PacifiCorp's purchase of Net Output from the Facility. No modification of this Agreement shall be effective unless it is in writing and signed by both Parties.

A17.2 By executing this Agreement, Seller releases PacifiCorp from any claims, known or unknown, which may have arisen prior to the Effective Date.

A17.3 This Agreement may be executed in counterparts. Signed copies of such counterparts may be transmitted to the Parties via facsimile or electronic mail. Electronically transmitted signed counterparts shall have the same effect as originals as between the Parties.

SECTION A18: JURY TRIAL WAIVER

A18.1 TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

EXHIBIT 1 TO APPENDIX A : INSURANCE

1.1

Required Policies and Coverages. Without limiting any liabilities or any other obligations of Seller under this Agreement, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-/VII" by the A.M. Best Company the insurance coverage specified below:

1.1.1 **Workers' Compensation.** Seller shall comply with any applicable laws or statutes, state or federal jurisdiction, where Seller performs work.

1.1.2 **Employers' Liability.** Seller shall maintain employers' liability insurance with minimum limits covering bodily injury for: \$500,000 – each accident, \$500,000 by disease – each employee, and \$500,000 by disease – policy limit.

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

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

1.1.5 **Umbrella/excess Liability.** Seller shall maintain umbrella or excess liability insurance on an occurrence and following form basis with a minimum limits as follows:

- (a) Facility Capacity Rating under 200 KW - \$1,000,000
- (b) Facility Capacity Rating at or above 200 KW - \$5,000,000

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

1.2 Additional Provisions or Endorsements:

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

- (a) naming PacifiCorp, parent, divisions, officers, directors and employees as additional insureds;
- (b) include provisions that such insurance is primary insurance with respect to the interests of PacifiCorp and that any other insurance maintained by PacifiCorp

is excess and not contributory insurance with the insurance required hereunder, and

(c) cross liability coverage or severability of interest.

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

1.3 Certificates. Prior to connection of the Facility to PacifiCorp's electric system, or another utility's electric system if delivery to PacifiCorp is to be accomplished by wheeling, Seller shall secure and continuously carry insurance in compliance with the requirements of this Section. Seller shall provide PacifiCorp insurance certificate(s) confirming Seller's compliance with the insurance requirements hereunder. Insurance certificate confirming compliance shall be provided to PacifiCorp by Seller at least annually and each time a new insurance policy is issued or becomes effective.

1.4 Commercial General Liability coverage written on a "claims-made" basis, if any, shall be specifically identified on the certificate, and Seller shall be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement and for such other length of time necessary to cover liabilities arising out of the activities under this Agreement.

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

APPENDIX B: Definitions

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

B.1 **“As-built Supplement”** shall be a supplement to **Exhibit A** and **Exhibit B**, provided by Seller following completion of construction of the Facility, accurately describing the Facility as actually built.

B.2 **“Billing Period”** means the time period between PacifiCorp’s consecutive readings of its power purchase billing meter at the Facility in the normal course of PacifiCorp’s business. Such periods typically range between twenty-seven (27) and thirty-four (34) days and may or may not coincide with calendar months.

B.3 **“Commission”** means the Washington Utilities and Transportation Commission.

B.4 **“Contract Price”** means the applicable price for capacity or energy, or both capacity and energy, stated in Section 2 and **Appendix C**.

B.5 **“Contract Year”** means a twelve (12) month period commencing at 00:00 hours Pacific Prevailing Time (“PPT”) on January 1 and ending at 24:00 hours PPT on December 31; *provided, however*, that the first Contract Year shall commence immediately after the Effective Date, and end on the next succeeding December 31, and the last Contract Year shall end on the Expiration Date, unless earlier terminated as provided herein.

B.6 **“Credit Requirements”** means a long-term credit rating (corporate or long-term senior unsecured debt) of (1) “Baa3” or greater by Moody’s, or (2) “BBB-” or greater by S&P, or such other indicia of creditworthiness acceptable to PacifiCorp in its reasonable judgment.

B.7 **“Default Security”** shall have the meaning set forth in Section 5.3.

B.8 **“Demonstrated Capacity”** means, for purposes of calculating the capacity component (in kW) of Net Output only for a given Billing Period, the lesser of:

$$\frac{\text{kWh of Net Energy during the Billing Period}}{\div (\text{number of hours in the Billing Period} - \text{Planned Outage hours in the Billing Period})}$$

or

Maximum Facility Delivery Rate

B.9 **“Effective Date”** shall have the meaning set forth in Section 1.1.

B.10 **“Environmental Attributes”** means any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical, or other substance to the air, soil or water, which are deemed of value by PacifiCorp. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil, or water such as (subject to the foregoing) sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), and other pollutants; and (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere. Environmental Attributes do not include (i) Production Tax Credits or any other tax incentives or cash grants existing now or in the future associated with the construction,

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

B.11 “**Expiration Date**” shall have the meaning set forth in Section 1.4.

B.12 “**Facility**” shall have the meaning set forth in Recital A.

B.13 “**Facility Capacity Rating**” means the sum of the Nameplate Capacity Ratings for all generators comprising the Facility, which sum is set forth in Recital A.

B.14 “**Force Majeure**” has the meaning set forth in Section A9.

B.15 “**Forced Outage**” means an outage that requires removal of one or more generators comprising the Facility from service, another outage state or a reserve shutdown state before the end of the next weekend. Maintenance Outages and Planned Outages are not Forced Outages.

B.16 “**Generator Interconnection Agreement**” means the Generator Interconnection Agreement (the “GIA”) to be entered into separately between Seller and PacifiCorp Transmission, providing for the construction, operation, and maintenance of PacifiCorp Transmission’s Interconnection Facilities required to accommodate deliveries of Seller’s Net Output.

B.17 “**Inadvertent Energy**” means energy delivered to the Point of Delivery at a rate exceeding the Maximum Facility Delivery Rate on an hour-averaged basis.

B.18 “**Interconnection Facilities**” means all the facilities and ancillary equipment used to interconnect the Facility to the System, as defined in the Generator Interconnection Agreement.

B.19 “**Letter of Credit**” means an irrevocable standby letter of credit, from an institution that has a long-term senior unsecured debt rating of “A” or greater from S&P or “A2” or greater from Moody’s, in a form reasonably acceptable to PacifiCorp, naming PacifiCorp as the party entitled to demand payment and present draw requests thereunder.

B.20 “**Licensed Professional Engineer**” means a person acceptable to PacifiCorp in its reasonable judgment who is licensed to practice engineering in the state of Washington, who has training and experience in the engineering discipline(s) relevant to the matters with respect to which such person is called to provide a certification, evaluation and/or opinion, who has no economic relationship, association, or nexus with the Seller, and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made. The engagement and payment of a Licensed Professional Engineer solely to provide the certifications, evaluations and opinions required by this Agreement shall not constitute a prohibited economic relationship, association or nexus with the Seller, so long as such engineer has no other economic relationship, association or nexus with the Seller.

B.21 “**Maintenance Outage**” means any outage of one or more generators comprising the Facility that is not a Forced Outage or a Planned Outage. A Maintenance Outage is an outage that can be deferred until after the end of the next weekend, but that requires that the generator(s) be removed from service before the next Planned Outage. A Maintenance Outage may occur any time during the year and must have a flexible start date.

B.22 “**Material Adverse Change**” means the occurrence of any event of default under any material agreement to which Seller is a party and of any other development, financial or otherwise, which would have a material adverse effect on Seller, the Facility or Seller’s ability to operate, maintain or own the Facility as provided in this Agreement.

B.23 “**Maximum Annual Delivery**” shall have the meaning set forth in Section 3.3.

B.24 “**Minimum Annual Delivery**” shall have the meaning set forth in Section 3.3.

B.25 “**Maximum Facility Delivery Rate**” means the maximum instantaneous rate (kW) at which the Facility is capable of delivering Net Output at the Point of Delivery, as specified in **Exhibit A**, and in compliance with the Generator Interconnection Agreement.

B.26 “**Maximum GIA Delivery Rate**” means the maximum rate (kW) at which the Generator Interconnection Agreement allows the Facility to deliver energy to the Point of Delivery and is set forth in **Exhibit A**.

B.27 “**Nameplate Capacity Rating**” means the maximum instantaneous generating capacity of any qualifying small power or cogeneration generating unit supplying all or part of the energy sold by the Facility, expressed in MW or kW, when operated consistent with the manufacturer’s recommended power factor and operating parameters, as set forth in a notice from Seller to PacifiCorp delivered before the Effective Date.

B.28 “**Net Energy**” means the energy component, in kWh, of Net Output. Net Energy does not include Inadvertent Energy.

B.29 “**Net Output**” means all energy and capacity produced by the Facility, less station use (power used to operate auxiliary equipment in the Facility necessary for generation and for other essential electricity uses in the Facility) and less transformation and transmission losses and other adjustments, if any, to the Point of Delivery. For purposes of calculating payment under this Agreement, Net Energy shall be the amount of energy flowing through the Point of Delivery, less any station use not provided by the Facility. For purposes of calculating payment under this Agreement, Demonstrated Capacity is the capacity component of Net Output. Net Output does not include Inadvertent Energy.

B.30 “**Network Service Provider**” means PacifiCorp Transmission, as a provider of network service to PacifiCorp under the Tariff.

B.31 “**PacifiCorp**” is defined in the first paragraph of this Agreement, and excludes PacifiCorp Transmission.

B.32 “**PacifiCorp Transmission**” means PacifiCorp, an Oregon corporation, acting in its interconnection and transmission function capacity or its successor.

B.33 “**Planned Outage**” means an outage of predetermined duration that is scheduled in **Exhibit D** and updated in accordance with Section A2.5.1. Boiler overhauls, turbine overhauls or inspections are typical planned outages. Maintenance Outages and Forced Outages are not Planned Outages.

B.34 “**Point of Delivery**” means the high side of the generation step-up transformer(s) located at the point of interconnection between the Facility and the System, as specified in the Generator Interconnection Agreement and in **Exhibit B**.

B.35 “**Previous PPA**” shall have the meaning set forth in Recital B.

B.36 **"Prime Rate"** means the rate per annum equal to the publicly announced prime rate or reference rate for commercial loans to large businesses in effect from time to time quoted by JPMorgan Chase & Co. If a JPMorgan Chase & Co. prime rate is not available, the applicable Prime Rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest based on the prime rate is being paid.

B.37 **"Production Tax Credits"** means production tax credits under Section 45 of the Internal Revenue Code as in effect from time to time during the term hereof or any successor or other provision providing for a federal tax credit determined by reference to renewable electric energy produced from renewable resources and any correlative state tax credit determined by reference to renewable electric energy produced from renewable resources for which the Facility is eligible. Production Tax Credits do not include any tax credit determined by reference to investment.

B.38 **"Projected Annual Capacity Factor"** equals the Minimum Annual Delivery (kWh) divided by the product of the Facility Capacity Rating (kW) multiplied by 8760.

B.39 **"Prudent Electrical Practices"** means any of the practices, methods and acts engaged in or approved by a significant portion of the electrical utility industry or any of the practices, methods or acts, which, in the exercise of reasonable judgment in the light of the facts known at the time a decision is made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition. Prudent Electrical Practices are not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts.

B.40 **"QF"** means **"Qualifying Facility,"** as that term is defined in the FERC regulations (codified at 18 CFR Part 292) in effect on the Effective Date.

B.41 **"Replacement Price"** means the price at which PacifiCorp, acting in a commercially reasonable manner, purchases for delivery at the Point of Delivery a replacement for any Net Output that Seller is required to deliver under this Agreement plus (a) costs reasonably incurred by PacifiCorp in purchasing such replacement Net Output; and (b) additional transmission charges, if any, reasonably incurred by PacifiCorp in causing replacement energy to be delivered to the Point of Delivery. If PacifiCorp elects not to purchase and deliver replacement energy to the Point of Delivery, the Replacement Price shall be the market price at the Mid-Columbia trading hub for such energy not delivered, plus any additional cost or expense incurred as a result of Seller's failure to deliver, as determined by PacifiCorp in a commercially reasonable manner (but not including any penalties, ratcheted demand or similar charges).

B.42 **"Required Facility Documents"** means all deeds, titles, leases, licenses, permits, authorizations, and agreements demonstrating that seller controls the necessary property rights and government authorizations to construct, operate, and maintain the Facility, including without limitation those set forth in **Exhibit C**.

B.43 **"Schedule 37"** means the Schedule 37 of PacifiCorp's (d/b/a Pacific Power & Light Co.) Commission-approved tariffs, providing pricing options for Qualifying Facilities of 2 MW or less, which is in effect on the Effective Date of this Agreement. A copy of that Schedule 37 is attached as **Appendix D**.

B.44 “**System**” means the electric transmission substation and transmission or distribution facilities owned, operated or maintained by Transmission Provider, which shall include, after construction and installation of the Facility, the circuit reinforcements, extensions, and associated terminal facility reinforcements or additions required to interconnect the Facility, all as set forth in the Generator Interconnection Agreement.

B.45 “**Tariff**” means the PacifiCorp Transmission FERC Electric Tariff Seventh Revised Volume No. 11 Pro Forma Open Access Transmission Tariff or the Transmission Provider’s corresponding FERC tariff or both, as revised from time to time.

B.46 “**Transmission Provider**” means PacifiCorp Transmission or a successor, including any regional transmission organization (“RTO”).

APPENDIX C: Contract Pricing

C.1 As provided in Schedule 37, the Contract Price shall be as follows.

CONTRACT PRICE: SCHEDULE 37 AVOIDED COST RATES:

Deliveries During Calendar Year	Capacity Payment \$/kW - Month	Energy Payment \$/MWH
2016	2.53	33.67
2017	2.57	35.60
2018	2.61	37.44
2019	2.66	40.22
2020	2.71	43.28

PACIFIC POWER & LIGHT COMPANY

WN U-75

Original Sheet No. 37.1

**Schedule 37
COGENERATION AND SMALL POWER PRODUCTION**

AVAILABILITY:

This schedule applies to any person or entity, hereinafter referred to as the Seller, who owns Qualifying Facilities the output of which is offered to the Company pursuant to WAC 480-107-095(1) and WAC 480-107-095(2) and is 2 MW or less.

PAYMENTS MADE TO SELLER:

The Seller shall be paid by the Company a capacity and energy payment as provided under the terms of a Power Purchase Agreement.

DEFINITIONS:

Qualifying Facilities: as used in this schedule shall have the same meaning as in Chapter 480-107-007 of the Washington Administrative Code.

TERMS AND CONDITIONS:

1. The Seller will be required to enter into a written Power Purchase Agreement and an Interconnection Agreement in a form satisfactory to the Company prior to interconnection of the Company and the Seller's facilities and the selling power to the Company.
2. All costs of interconnection of the Seller's facilities with the Company's system will be borne by the Seller. Such costs will include the initial cost of interconnection, O&M cost, and any other costs incurred by the Company from time to time with respect to the Seller's facilities and the interconnection with the Company's system.
3. The Seller shall indemnify and hold harmless the Company from any and all liability arising from the operation and interconnection of the Seller's facilities. The Company will require evidence of the insurance to this effect.
4. The Seller shall provide a lockable disconnect switch to isolate the Seller's generation from the Company's system. Such switch shall be accessible to the Company and the Company shall have the right to lock such disconnect switch open whenever necessary to maintain safe electrical operation conditions, or whenever the Seller's facilities adversely affect the Company's system.
5. Except for the metering, the Seller shall own and maintain all facilities on the Seller's side of the single point of delivery as specified in the Power Purchase Agreement. The Seller's facility, including interconnecting equipment, shall be inspected and approved by the state electrical inspector and any other public authority having jurisdiction before any connection is made to the Company's system.

(continued)

Issued: May 13, 2011
Advice No. 11-01

Effective: June 13, 2011

Issued By Pacific Power & Light Company

By: Andrea Kelly Andrea L. Kelly

Title: Vice President, Regulation

PACIFIC POWER & LIGHT COMPANY

WN U-75

Third Revision of Sheet No. 37.2
Canceling Second Revision of Sheet No. 37.2**Schedule 37
COGENERATION AND SMALL POWER PRODUCTION****TERMS AND CONDITIONS:** (continued)

6. The Company will purchase the entire output from the Seller's facility, or if the Seller wishes to reduce his net delivery and billing from the Company, the Company will purchase the net output from the Seller's facility. The metering configuration to measure such purchases will be specified in the Power Purchase Agreement and/or Interconnection Agreement.
7. The Avoided Cost rates are fixed for five years. However, these rates are recalculated every year and applicable to any seller that enters into power purchase agreement with PacifiCorp in that year.

GENERAL RULES AND PROVISIONS:

Service under this schedule is subject to the General Rules and Provisions contained in this tariff.

AVOIDED COST RATES:

Deliveries During Calendar Year	Capacity Payment \$/kW - Month	Energy Payment \$/MWH
2014	\$2.45	29.62
2015	\$2.49	31.92
2016	\$2.53	33.67
2017	\$2.57	35.60
2018	\$2.61	37.44
2019	\$2.66	40.22
2020	\$2.71	43.28
2021	\$2.76	46.04
2022	\$2.81	53.10
2023	\$2.86	57.45

Issued: December 26, 2013
Advice No. 13-11

Effective: February 28, 2014

Issued by Pacific Power & Light Company

By:  William R. Griffith

Title: Vice President, Regulation

EXHIBIT A: Description of Seller's Facility

[Seller to Complete]

Seller's Facility consists of two (2) generators manufactured by Mitsubishi totaling 1,441 KW. More specifically, the Facility consists of:

Unit 1: 748 KW; Power Factor .85; Net Head 155.5-236.5 feet; Max output 1,005 HP; 815 KVA; 1,200 RPM; Temperature Base 40C/104F, Rise Limit 80C/176F

Unit 2: 693 KW; Power Factor .85; Net Head 298-378 feet; Max output 1,085 HP; 880 KVA; 1,200 RPM; Temperature Base 40C/104F, Rise Limit 80C/176F .

A. Manufacturer's Nameplate Data:

Type (synchronous or inductive): Induction

Model: Mitsubishi Unit 1 and Unit 2 for Orchard Ave.

Number of Phases: 3

PER ENGINE/GENERATOR

Rated Output (kW): 1441

Rated Output (kVA): 1695

Rated Voltage (line to line): 2400

Rated Current (A): 308

Power factor requirements:

Rated Power Factor (PF) or reactive load (kVAR): .8

B. Seller's Estimate of Facility Annual Output Under Ideal (Maximum) or Worst (Minimum) Conditions

Maximum kW Output ("Maximum Facility Delivery Rate"): 1,441 kW

Maximum kVA Output: 1,695kVA

Minimum kW Output: 100 kW **Estimated kW Output:** 620 kW

Maximum GIA Delivery Rate: 1,441 kW [specify whether instantaneous or hour-averaged]

Nameplate Capacity Rating: 1,441kW at 104 degrees F [ambient temperature] at an elevation of 1,000 ft. above sea-level.

Station service requirements are described as follows: Estimated at 12.5 KW

Location of the Facility: Yakima, Yakima County, Washington The location is more particularly described as follows:

R17E. T. 13N. SEC. 23 Parcel 33410

Seller Confirmation:  [Seller's signature] Seller confirms that the information in this Exhibit A is correct as of 4/30/12 [date]

EXHIBIT B: Point of Delivery/Parties' Interconnection Facilities

[Seller to provide its own diagram and description]

POINT OF DELIVERY / SELLER'S INTERCONNECTION FACILITIES

Instructions to Seller:

1. Include description of point of metering, and Point of Delivery
2. Provide interconnection single line drawing of Facility including any transmission facilities on Seller's side of the Point of Delivery.
 1. Point of delivery and metering is on the high side of the PacifiCorp transformer located on the east side of Mize Road and Orchard Avenue
 2. A one-line diagram of the Facility is attached.

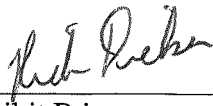
Seller Confirmation:  [Seller's signature] Seller confirms that the information in this Exhibit B is correct as of 4/30/15 [date]

EXHIBIT C: Required Facility Documents

REQUIRED OF ALL FACILITIES:

Qualifying Facility Number from FERC: QF85-587-000

Executed Generator Interconnection Agreement

Fuel Supply Agreement, if applicable N/A

Water Rights: S4-112710CL Yakima River Adjudication Major Claimant Court Claim No. 1513
1905 United States Withdrawal

Original Certificate Number: S4-27846-P

FERC License: 7338

Retail Electric Service Agreement: Pacific Power provides retail electric service

Proof of Insurance

All permits and approvals necessary for operation.

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

EXHIBIT D: Energy Delivery Schedule

A. MONTHLY DELIVERY SCHEDULES AND SCHEDULED MAINTENANCE

Month	Average Energy (KWh)
January	
February	
March	
April	54,508
May	254,165
June	522,749
July	729,234
August	786,255
September	625,647
October	206,946
November	
December	

Seller provide an estimate of the average monthly Net Output of the Facility, and explain the basis for the estimate.

Average output based on 2001-2012 historic generation. Average estimate is 3,179,505 KWH.

B. MINIMUM ANNUAL DELIVERY CALCULATION

Seller specify the Minimum Annual Delivery of the Facility, and explain the basis for the estimate. NOTE: The Minimum Annual Delivery should be based on the most adverse natural motive force conditions reasonably expected and should take into account maintenance and Seller's load (if any).

Minimum output based on 2001-2012 historic generation. Minimum estimate of 2,657,569 KWH is based on 2011 delivery with an adjustment for performance.

C. MAXIMUM ANNUAL DELIVERY CALCULATION

Seller specify the estimated Maximum Annual Delivery of the Facility, and explain the basis for the estimate.

Maximum output based on 2001-2012 historic generation. Maximum estimate of 3,727,130 KWH is based on 2003 delivery with an adjustment for performance.

D. PLANNED OUTAGES

Seller will provide a Planned Outage schedule annually not to exceed 150 hours per year.

EXHIBIT E-1: Motive Force Plan

YEAR	ORCHARD AVE.
2001	2,900,996
2002	3,145,100
2003	3,727,130
2004	3,327,376
2005	3,445,350
2006	3,227,132
2007	3,424,052
2008	3,402,194
2009	3,204,394
2010	2,672,766
2011	2,657,569
2012	3,020,004
Average	3,179,505

EXHIBIT E-2: Engineer's Certification

The Motive Force Plan comprising **Exhibit E-1** was provided to PacifiCorp by Seller. Based upon Seller's demonstrated delivery of Net Output to PacifiCorp under Previous PPAs and representations made by Seller PacifiCorp will not require an engineer's certificate at this time. PacifiCorp reserves the right in its discretion to require the Seller to provide the following from a Licensed Professional Engineer:

1. A certificate addressed to PacifiCorp from a Licensed Professional Engineer stating (a) the Facility Capacity Rating of the Facility at the date of the request from PacifiCorp; and (b) that the Facility is able to generate electric power reliably in amounts required by this Agreement and in accordance with all other terms and conditions of this Agreement.
2. A certificate addressed to PacifiCorp from a Licensed Professional Engineer stating that, (a), in accordance with the Generation Interconnection Agreement, all required interconnection facilities have been constructed, all required interconnection tests have been completed and the Facility is physically interconnected with PacifiCorp's electric system, or (b) if the Facility is interconnected with another electric utility that will wheel Net Output to PacifiCorp, all required interconnection facilities have been completed and tested and are in place to allow for such wheeling.
3. A certificate addressed to PacifiCorp stating that Seller has obtained all Required Facility Documents and if requested by PacifiCorp, in writing, has provided copies of any or all such requested Required Facility Documents.

Such documents shall be provided to PacifiCorp within 30 days of a request by PacifiCorp.

EXHIBIT F

Seller Authorization to Release Generation Data to PacifiCorp
[Interconnection Customer Letterhead]

Transmission Services
Attn: Director, Transmission Services
825 NE Multnomah, Suite 1600
Portland, OR 97232

RE: Yakima-Tieton Irrigation District Interconnection Request

Dear Sir:

Yakima-Tieton Irrigation District hereby voluntarily authorizes PacifiCorp's Transmission business unit to share Yakima-Tieton Irrigation District's generator interconnection information and generator meter data with Marketing Affiliate employees of PacifiCorp Energy, including, but not limited to those in the Commercial and Trading group. Yakima-Tieton Irrigation District acknowledges that PacifiCorp did not provide it any preferences, either operational or rate-related, in exchange for this voluntary consent.

Richard Dicks
Name

Secretary - Manager
Title

October 18, 2008
Date