

APPENDIX F-2

Build Transfer Agreement (BTA) Documents

Term Sheet - Build Transfer Agreement

The following are the material terms and conditions of the Build Transfer Agreement between Seller and Purchaser. Capitalized terms used and not defined herein will have the meaning given to such terms in the definitive Build Transfer Agreement between the Parties.

1.	Purchaser	PacifiCorp, an Oregon corporation
2.	Seller	[____]. Seller and Purchaser are sometimes hereafter referred to as a “ <u>Party</u> ” or collectively as the “ <u>Parties</u> ”.
3.	Project and Project Site	<p>A site located in [____] County, [____] (“<u>Project Site</u>”) that is capable of being fully permitted and developed to permit the construction and commissioning, by or on behalf of Purchaser, of an approximately [] MW[(ac)] [ground-mounted solar photovoltaic][wind powered][gas powered] electric generating facility (“<u>Project</u>”) [with a fully integrated energy storage system (“<u>ESS</u>”) charged solely from the associated [solar][wind] electric generating facility located at the Project Site.</p> <p>[Note: Bidders should adjust the wording of this section to accurately describe the proposed Project, present technical details to PacifiCorp with respect to the proposed Project, and, if applicable, the ESS, with sufficient detail to show how the components of the Project will be fully integrated (including with respect to charging and discharging of energy from the ESS).]</p>
4.	Proposed Transaction	The “ <u>Proposed Transaction</u> ” means the purchase by Purchaser and sale by Seller of the Project, the Project Site and the Project Assets pursuant to the Build Transfer Agreement. For the avoidance of doubt, the Proposed Transaction will not be structured as a sale of equity interests in one or more entities owned or controlled by Seller that relate to the Project, the Project Site and the Project Assets. At the Closing, the Project Assets and Assumed Liabilities will be conveyed to Purchaser free and clear of all Liens, other than Permitted Liens.
5.	Project Assets; Assumed Liabilities; Excluded Assets;	“ <u>Project Assets</u> ” means all assets, properties, rights and interests of every kind, nature, character and description (whether real, personal or mixed, whether tangible or intangible, and whether at or deliverable to the Project Site), and any goodwill related thereto, owned or leased

	<p>Excluded Liabilities</p>	<p>by, or licensed to, Seller as of the Closing Date, in each case, which relate to or are used or held for use in connection with the development, construction, operation, maintenance, repair, ownership or use of the Project, including the Shared Facilities, if applicable (other than the Excluded Assets), including: (a) books and records; (b) the Project Site; (c) the Project Contracts; (d) the Project real property agreements; (e) the Project fixtures and equipment; (f) the Project improvements; (g) the Project intellectual property; (h) the Project Permits (other than the Purchaser permits); (i) the Project reports;(j) the resource data (solar irradiance or wind data, as applicable and including meteorological data with respect to all resources); and (k) any warranties associated with the equipment and/or workmanship of the Project.</p> <p>“<u>Assumed Liabilities</u>” means (i) all Liabilities under the Project Contracts expressly assumed by Purchaser and (ii) all Liabilities arising from the ownership, operation, maintenance, repair or use of the Project or the Project Assets by Purchaser following the Closing.</p> <p>Except for the Assumed Liabilities, Purchaser will not assume and will not be responsible to pay, perform, satisfy or discharge any Liabilities of Seller or any of its Affiliates of any kind or nature whatsoever, whether direct or indirect, known or unknown, absolute or contingent, relating to the development, construction, ownership, operation, maintenance, repair or use of the Project, the Project Assets or the Project Site prior to the Closing (the “<u>Excluded Liabilities</u>”).</p> <p>The Project Assets and the Assumed Liabilities will not include (i) any “<u>Excluded Assets</u>,” which will be listed in a schedule to the Build Transfer Agreement, or (ii) any Excluded Liabilities, which Seller (or its Affiliates) will retain, pay and perform, including:</p> <ul style="list-style-type: none"> • Liabilities from any violation of applicable environmental law on the Project Site prior to Closing; • Liabilities from any environmental condition on, under or near the Project Site existing prior to Closing, including remediation costs, natural resource damages, bodily injury or property damage; • Liabilities from off-site transportation, disposal, recycling or storage of any hazardous substances on the Project Site prior to Closing, including Liabilities related to remediation, natural resource damages, bodily injury or property damage; • Liabilities related to any employee benefit plan of Seller (or its Affiliates (including ERISA Affiliates)) with respect to current or former employees or contractors; • Liabilities under the Project Contracts, the Project real property agreements and Project Permits (other than Purchaser permits) prior to Closing;
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6.	Project Contracts	<p>“<u>Project Contracts</u>” means all contracts to which Seller or any of its Affiliates is a party with respect to the Project or the Project Assets other than the Project real property agreements.</p>
7.	Purchase Price; Payment of Purchase Price	<p>The “<u>Purchase Price</u>” means [____]. Purchaser will pay to Seller the Purchase Price at the times, in the amounts and otherwise subject to the conditions and requirements in the Build Transfer Agreement.</p> <p>[Note: Bidder to propose timing and structure of payments, including payment milestones. See related note with respect to performance security below.]</p>
8.	Allocation of Purchase Price	<p>Within forty-five (45) days after Closing, Purchaser will provide Seller with an allocation of Purchase Price. Seller will have thirty (30) days to propose any changes.</p>
9.	Firm Date and Firm Date Conditions	<p>“<u>Firm Date</u>” means the date on which all of the Firm Date Conditions have been satisfied (or waived by the Party entitled to do so).</p> <p>The Parties’ obligations between the Firm Date and the Closing are subject to fulfillment of conditions which must be satisfied on or prior to the Firm Date and include, among other customary conditions:</p> <p>For Purchaser and Seller (all or any of which may be waived in whole or in part by each Party in its sole discretion):</p> <ul style="list-style-type: none"> • Firm Date Permits (a) have been obtained and issued in the name of Seller or the Project, (b) are in full force and effect, and (c) satisfy any other requirements of the Build Transfer Agreement with respect to review and approval of Permits; • Seller has delivered to Purchaser each of the Firm Date Reports and any Additional Reports required pursuant to the Build Transfer Agreement and such reports have satisfied any other requirements of the Build Transfer Agreement with respect to

		<p>the preparation, sufficiency and material findings of such reports;</p> <ul style="list-style-type: none"> • Seller has delivered to Purchaser a Phase I ESA, current and valid on the Firm Date under ASTM Standard Practice E1527-13, addressed to Purchaser, and accompanied by a reliance letter incorporating user provided information from Purchaser, in form and substance reasonably satisfactory to Purchaser; • Seller and Purchaser have agreed on all Firm Date Title Objections and NDA-Required Exceptions and Seller has delivered all Non-Disturbance Agreements and Curative Documents in accordance with the standards and processes set forth in the Build Transfer Agreement; • The form of Title Policy to be issued as of the Closing Date has been finalized and agreed to; • Seller has caused the Title Company to issue to Purchaser the Updated Title Commitment and a pro forma policy of title insurance consistent with the Updated Title Commitment and the agreed upon Firm Date Title Objections and NDA-Required Exceptions; • Seller has issued a full notice to proceed pursuant to the EPC Agreement; • The Interconnection Agreement has been finalized and executed by the parties thereto in accordance with the requirements of the Build Transfer Agreement and is in form and substance acceptable to Purchaser in its reasonable discretion; • All Firm Date Required Consents have been duly obtained, made or given and are in full force and effect; • The final form of the Construction Completion Management Agreement has been mutually agreed to by the Parties; • The final form of the O&M Agreement has been mutually agreed to by the Parties; and • The final form of the Shared Facilities Agreement, if applicable, has been mutually agreed to by the Parties. <p>For Purchaser (all or any of which may be waived in whole or in part by Purchaser in its sole discretion):</p> <ul style="list-style-type: none"> • Seller's representations and warranties are true and correct as of Firm Date in all material respects except for Seller's fundamental representations and warranties and representations and warranties qualified by a materiality standard, which will be true and correct in all respects; • Seller has performed its obligations in the Build Transfer Agreement in all material respects; and • There are no Seller Material Adverse Effects.
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10.	Closing	The Parties will mutually agree on a Closing Date following the satisfaction of the conditions to the Closing.
11.	Seller’s Closing Deliverables	<p>The Build Transfer Agreement will contain certain Seller deliverables required by Purchaser to Close which are customary and appropriate for a transaction of this type and scale, including, among other things, fully executed (other than by Purchaser or its Affiliates) copies of:</p> <ul style="list-style-type: none"> • Bill of Sale; • Assignment and Assumption Agreement; • Construction Completion Management Agreement; • O&M Agreement, if applicable; • Shared Facilities Agreement, if applicable; • EPC Agreement and other Construction Agreements, if any; • Bargain and Sale Deed, if applicable; • Owner’s Affidavit (in form and substance satisfactory to the Title Company); • Phase I ESA, current and valid on the Closing Date under ASTM Standard Practice E1527-13, addressed to Purchaser, and accompanied by a reliance letter incorporating user provided information from Purchaser, in form and substance reasonably satisfactory to Purchaser; • FIRPTA certificate; and • Purchaser’s and Officer’s Certificates.
12.	Purchaser’s Closing Deliverables	<p>The Build Transfer Agreement will contain certain Purchaser deliverables required by Seller to Close which are customary and appropriate for a transaction of this type and scale, including, among other things, fully executed (other than by Seller or its Affiliates) copies of:</p> <ul style="list-style-type: none"> • Bill of Sale; • Assignment and Assumption Agreement; • Construction Completion Management Agreement; • O&M Agreement, if applicable;

		<ul style="list-style-type: none"> • Shared Facilities Agreement, if applicable; and • Seller’s and Officer’s Certificates.
13.	Covenants and Efforts to Close	<p>Each Party will take commercially reasonable efforts to complete the Proposed Transaction, and Seller will continue to conduct business with respect to the Project in the ordinary course and consistent with Good Operating Practices. The Parties will take additional actions, including as follows:</p> <ul style="list-style-type: none"> • Each Party will provide reasonable cooperation to obtain consents and make all filings required to complete the Proposed Transaction; • Each Party will prepare all necessary filings required by governmental authorities [Note: FERC approval under Section 203 is not anticipated.]; • Seller will deliver to Purchaser (i) one or more commitments for title insurance for the Project Site, and (ii) a current ALTA survey. Purchaser may provide to Seller a Title Objection Letter that identifies Firm Date Title Objections and NDA-Required Exceptions. The Parties will work through these matters in accordance with the requirements of the Build Transfer Agreement; • Seller will not: (i) enter into the EPC Agreement or any other Construction Agreement, if any, other than substantially and in all material respects in the forms attached to the Build Transfer Agreement; (ii) enter into any material contract relating to the Project, the Project Assets or the Project Site; (iii) modify or amend in any material respect any material contract with respect to the Project, including Project Contracts or Project real property agreements; (iv) fail to take actions necessary to maintain the Project Permits; or (v) take any action that would reasonably be expected to materially adversely affect the Project or the Project Assets; • Upon reasonable prior notice, Purchaser and its representatives will have a reasonable right to access and inspect the Project Site, the Project Assets and the Books and Records; • Seller will obtain and maintain, or cause to be obtained and maintained, insurance on the Project and Project Site effective as of the start of construction; • Seller will not solicit any competition to the Proposed Transaction; • Seller will not make or change any material tax election; • Purchaser will use reasonable efforts to replace credit support following the Closing; and • Seller will deliver true and correct copies of draft and final reports with respect to the Project.

14.	Purchaser's Conditions Precedent to Closing	<p>The Build Transfer Agreement will contain certain conditions precedent required for Purchaser to Close which are customary and appropriate for a transaction of this type and scale, including, among other things:</p> <ul style="list-style-type: none"> • Seller's representations and warranties are true and correct as of Closing in all material respects except for Seller's fundamental representations and warranties and representations and warranties qualified by a materiality standard, which will be true and correct in all respects; • Seller has performed its obligation in all material respects; • No laws or final orders restrict the Proposed Transaction; • All of Purchaser's Consents have been obtained and are in full force and effect; • All of Seller's closing deliverables have been provided; • The Project Contracts and schedules support achievement of the Commercial Operation Date (as defined in the EPC Agreement) on or prior to the Commercial Operation Deadline (as defined in the EPC Agreement); • The Project has achieved Availability Completion (as defined in the EPC Agreement) and, if applicable, ESS Availability Completion (as defined in the EPC Agreement); • The Project has not, in whole or in part, been synchronized to the electric transmission system; • Seller has provided documentation satisfactory to Purchaser with respect to qualification for any applicable tax credits; • Seller's Parent Guaranty is in full force and effect; • Any objections to title and survey matters have been cured to Purchaser's reasonable satisfaction; • There are no Seller Material Adverse Effects; and • The required Project permits have been issued.
15.	Seller's Conditions Precedent to Closing	<p>The Build Transfer Agreement will contain certain conditions precedent required for Seller to Close which are customary and appropriate for a transaction of this type and scale, including, among other things:</p> <ul style="list-style-type: none"> • All required Purchase Price payments have been made; • Purchaser's representations and warranties are true and correct as of Closing in all material respects except for Purchaser's fundamental representations and warranties and representations and warranties qualified by a materiality standard, which will be true and correct in all respects; • Purchaser has performed its obligation in all material respects; • No laws or final orders restrict the Proposed Transaction;

		<ul style="list-style-type: none"> • All of Seller’s Consents have been obtained and are in full force and effect; • All of Purchaser’s closing deliverables have been provided; and • There are no Purchaser Material Adverse Effects.
16.	Performance Security	<p>Seller will provide a parent guaranty (“<u>Seller’s Parent Guaranty</u>”) from a creditworthy entity guaranteeing to Purchaser repayment of any amount or liability of Seller under the Build Transfer Agreement. The form, amount and conditions surrounding performance security provided by Seller will ultimately be subject to an evaluation of the payment structure agreed to between the Parties as well as Purchaser’s evaluation of the risk profile that accompanies the final terms and conditions of the Proposed Transaction. Additional or different performance security requirements may result therefrom.</p>
17.	Update of Seller’s Disclosure Schedules	<p>Prior to the Firm Date and the Closing Date, Seller will update certain factual schedules to reflect, among other things, new contracts entered into; new fixtures and equipment; additional improvements; additional Project intellectual property; any new Project real property agreements entered into; new reports; and additional resource data.</p> <p>In addition, prior to the Firm Date and the Closing Date, Seller will update the disclosure schedules with any matter arising after the date of the Build Transfer Agreement which would have been required to be disclosed. If any matter disclosed has or would reasonably be expected to have a Seller Material Adverse Effect and Purchaser does not elect to terminate the Build Transfer Agreement, then such disclosed matter will be taken into consideration for purposes of Seller satisfying the Firm Date or Closing condition with respect to its representations and warranties and Purchaser will not be entitled to indemnification with respect thereto if Closing occurs. If any matter disclosed does not have and would not reasonably be expected to have a Seller Material Adverse Effect, then such disclosed matter will be taken into consideration for purposes of Seller satisfying the Firm Date or Closing condition with respect to its representations and warranties, but Purchaser will be entitled to indemnification with respect thereto if Closing occurs.</p>
18.	Representations and Warranties	<p>The Build Transfer Agreement will include representations and warranties as are customary and appropriate in transactions of this type and scale, including representations and warranties regarding the following items, which will contain such knowledge and materiality qualifiers as are mutually agreed to by the Parties and will be subject to such exceptions as will be disclosed by Seller:</p> <ul style="list-style-type: none"> • Corporate existence and authority to complete the Proposed Transaction;

		<ul style="list-style-type: none"> • The Proposed Transaction does not conflict with corporate authority, contracts, or other obligations; • Seller and the Project are in compliance with all applicable laws; • Seller has good and marketable title to the Project Assets (including the Shared Facilities, if any) free and clear of all Liens except for Permitted Liens; • Seller has good and marketable fee simple title or valid leasehold or easement interests in the Project Site, free and clear of all Liens except for Permitted Liens; • The Project Assets (including the Shared Facilities, if any) constitute all of the material Contracts, Permits, rights, assets and properties necessary to develop, construct, own, operate, maintain and use the Project; • After Closing, except for the Project Contracts and the Project real property agreements, the Project Assets will not be bound to any contracts; • The disclosed Permits constitute all Project Permits; • There are no Seller Material Adverse Effects; • The disclosed insurance policies with respect to the Project Assets constitute all insurance policies; • At Closing, Seller will have disclosed all material reports and other documents with respect to the Project, including any documents with respect to resource data; • No environmental attributes have been sold; and • At Closing the Project is in compliance with all environmental permits and environmental laws and there are no pending or threatened violations.
19.	Liquidated Damages for Delayed Closing Date and Commercial Operation Date	Depending upon the payment and security arrangements, the Build Transfer Agreement may contain delay liquidated damages for delay in timely achieving the Closing Date and the Commercial Operation Date by specified deadlines.
20.	Termination Rights	<p>At any time before Closing, the Build Transfer Agreement may be terminated upon the occurrence of any of the following events:</p> <ul style="list-style-type: none"> • By mutual written consent of the Parties; • By Purchaser or Seller in the event any non-appealable law becomes effective, or a final order is issued, which prohibits the completion of the Proposed Transaction; • By Purchaser or Seller, as applicable, if (a) (i) the other Party breaches any representation, warranty or covenant in the Build Transfer Agreement, (ii) such breach would result in a failure of, or inability of the other Party to satisfy the applicable

		<p>Closing conditions(s), and (iii) such breach has not been cured to Purchaser's or Seller's, as applicable, reasonable satisfaction within thirty (30) days following receipt of written notice of such breach or an extended cure period not to exceed the Outside Closing Date; or (b) a disclosure schedule update is delivered by a Party which discloses a Seller Material Adverse Effect or Purchaser Material Adverse Effect, as applicable, and which is not been cured within thirty (30) days following receipt of written notice of such breach or an extended cure period not to exceed the Outside Closing Date;</p> <ul style="list-style-type: none"> • By either Party, upon the bankruptcy of the other Party; • By either Party, any time after a specified Outside Firm Date if the failure to achieve the Firm Date is not caused by a breach of such Party; and • By either Party, any time after a specified Outside Closing Date if the failure to complete Closing is not caused by a breach of such Party. <p>If validly terminated, then all further obligations of the Parties will end (other than those which are intended to survive termination), and the Parties will be entitled to pursue all rights or remedies available at law or in equity.</p>
21.	Indemnification	<p>The Build Transfer Agreement will include indemnification provisions as are customary and appropriate in transactions of this type and scale including the following:</p> <p>Seller will indemnify Purchaser and the other Purchaser Indemnified Parties from and against any and all Losses resulting from:</p> <ul style="list-style-type: none"> • Breach of Seller's representations or warranties; • Breach by Seller of its covenants, agreements or obligations pursuant to the Build Transfer Agreement or ancillary agreements; • Seller's fraud or willful misconduct; • Excluded Assets and Excluded Liabilities; and • Construction Costs. <p>Purchaser will indemnify Seller and the other Seller Indemnified Parties from and against any and all Losses resulting from:</p> <ul style="list-style-type: none"> • Breach of Purchaser's representations or warranties; • Breach by Purchaser of its covenants, agreements or obligations pursuant to the Build Transfer Agreement or ancillary agreements; • Purchaser's fraud or willful misconduct; and • Assumed Liabilities.

		<p>Such indemnification provisions will include: (a) a claim threshold which equals a specified percent of the Purchase Price; (b) a liability cap for each Party not to exceed 100% of the Purchase Price (except in the event of fraud, willful misconduct or gross negligence of a Party or its related persons, or breach of fundamental representations and warranties, for which there will be no liability cap); and (c) a general survival period for representations and warranties of no less than 24 months following the Closing, with specified representations and warranties surviving for greater time periods (i.e., fundamental representations and warranties surviving indefinitely; tax and employee benefit representations and warranties surviving through the applicable statute of limitations plus 60 days; and environmental representations and warranties surviving 5 years)</p> <p>Purchaser's right to indemnification based on representations, warranties, covenants and other obligations in the Build Transfer Agreement will not be limited, diminished or otherwise affected by any investigation conducted or knowledge obtained before or after Closing with respect to the accuracy or inaccuracy of such representations, warranties, covenants or other obligations.</p>
22.	Limitation of Liability	<p>Seller's aggregate liability under the Build Transfer Agreement will not exceed the Purchase Price, subject to carveouts for fraud, gross negligence, willful misconduct or claims for Excluded Assets, Excluded Liabilities, Construction Costs, Seller's fundamental representations and warranties, or any claim for specific performance.</p> <p>Purchaser's aggregate liability under the Build Transfer Agreement will not exceed the Purchase Price, subject to carveouts for fraud, gross negligence, willful misconduct or claims for Assumed Liabilities, Purchaser's fundamental representations and warranties, or any claim for specific performance.</p>
23.	Taxes	<p>Seller will be responsible for the payment of all sales, conveyance, transfer, excise, real estate transfer, business and occupation and similar taxes assessed with respect to or imposed on either Party relating to Purchaser's acquisition of the Project Assets (or otherwise) in connection with the Proposed Transaction. Seller will also make several tax representations customary for this type of transaction.</p>
24.	Dispute Resolution; Governing Law; Venue; Jury Trial Waiver	<p><u>Dispute Resolution</u>: Disputes not resolved in the ordinary course of business will be referred to senior executives. If such senior executives cannot in good faith resolve the dispute within thirty (30) days the Parties may pursue any remedy at law, equity or under the Build Transfer Agreement.</p> <p><u>Governing Law</u>: The Build Transfer Agreement and the rights and obligations of the Parties thereunder and the transactions contemplated</p>

		<p>thereby will be governed by, enforced and interpreted in accordance with the laws of the State of [Oregon] without regard to principles of conflicts of law that would apply the laws of another jurisdiction.</p> <p><u>Venue:</u> Each of the Parties will irrevocably and unconditionally submit to the exclusive jurisdiction of the federal and state courts located in [Portland], [Oregon] (or if no such court will accept jurisdiction, in any state or federal court of general jurisdiction in the State of Oregon, or if no such court will accept jurisdiction, in any court of competent jurisdiction in the United States) with respect to any proceeding relating to the Build Transfer Agreement.</p> <p><u>Jury Trial Waiver:</u> The Parties will waive jury trial in any suit or proceeding related to the Build Transfer Agreement or any ancillary agreements.</p>
25.	Waiver of Remedies; Specific Performance	<p>Except for Purchase Price adjustments, claims for fraud or willful misconduct, the remedies in the Build Transfer Agreement are the sole and exclusive remedies under the Build Transfer Agreement, and all other remedies or damages at law or equity are waived. Either Party is entitled to seek specific performance of the obligations under the Build Transfer Agreement.</p>
26.	Assignment	<p>Neither Party may assign the Build Transfer Agreement without the prior written consent of the other Party; provided, however:</p> <ul style="list-style-type: none"> • Purchaser may assign the Build Transfer Agreement to any Affiliate or successor in interest without Seller’s consent; and • Seller may assign the Build Transfer Agreement to an Affiliate without Purchaser’s consent, provided that the Seller’s Parent Guaranty (or other applicable credit support) remains in full force and effect.