

**POWER PURCHASE AGREEMENT**

**BETWEEN**

**SUNNYSIDE SOLAR, LLC**

**AND**

**PACIFICORP**

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## POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT (this "Agreement"), is entered into between Sunnyside Solar, LLC, a Delaware limited liability company (the "Seller"), and PacifiCorp, an Oregon corporation ("PacifiCorp"). Seller and PacifiCorp are sometimes referred to in this Agreement collectively as the "Parties" and individually as a "Party."

- A. Seller intends to construct, own, operate and maintain a solar-powered generating facility for the generation of electric energy located in Yakima County, Washington, with a nameplate capacity rating of 4.99 MW (the "Facility"); and
- B. Seller will operate the Facility as a Qualifying Facility ("QF"); and
- C. Seller desires to sell, and PacifiCorp agrees to purchase, the Net Output delivered by the Facility in accordance with the terms and conditions of this Agreement; and
- D. The rates, terms and conditions in this Agreement are in accordance with the rates, terms, and conditions approved by the Commission for purchases from QFs; and
- E. PacifiCorp intends to designate the Facility as a Network Resource for the purposes of serving network load.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties mutually agree as follows:

## SECTION 1 DEFINITIONS, RULES OF INTERPRETATION

1.1 Defined Terms. Unless otherwise required by the context in which any term appears, initially capitalized terms used in this Agreement have the following meanings:

“Abandonment” means (a) the relinquishment of all possession and control of the Facility by Seller, or (b) if after commencement of the construction, testing, and inspection of the above-ground portions of the Facility (exclusive of road building), and prior to the Commercial Operation Date, there is a complete cessation of the construction, testing, and inspection of the Facility for ninety (90) consecutive days, but only if such relinquishment or cessation is not caused by or attributable to an Event of Default by PacifiCorp, a request by PacifiCorp, or an event of Force Majeure.

“AC” means alternating current.

“Affiliate” means, with respect to any entity, each entity that directly or indirectly controls, is controlled by, or is under common control with, such designated entity, with “control” meaning the possession, directly or indirectly, of the power to direct management and policies, whether through the ownership of voting securities or by contract or otherwise. Notwithstanding the foregoing, with respect to PacifiCorp, “Affiliate” only includes Berkshire Hathaway Energy Company and its direct, wholly owned subsidiaries.

“Agreement” is defined in the Recitals.

“As-built Supplement” is a supplement to Exhibit B of this Agreement, as provided in Section 6.1, which provides the final “as-built” description of the Facility, including the Point of Delivery and, subject to the provisions of Section 6.1, identifies changes in equipment or Facility configuration, or other modifications to the information provided in Exhibit B as of the Effective Date.

“Business Day” means any day on which banks in Portland, Oregon, are not authorized or required by Requirements of Law to be closed.

“Capacity Rights” means any current or future defined characteristic, certificate, tag, credit, ancillary service or attribute thereof, or accounting construct, including any of the same counted towards any current or future resource adequacy or reserve requirements, associated with the electric generation capability and capacity of the Facility or the Facility’s capability and ability to produce energy and any of those services necessary to support the transmission of electric power from Seller to PacifiCorp and to maintain reliable operations of the System, including voltage control, operating reserve, spinning reserve and reactive power. Capacity Rights do not include any Tax Credits or other tax incentives existing now or in the future associated with the construction, ownership or operation of the Facility.

“Commercial Operation” means that the Nameplate Capacity Rating of the Facility is fully operational and reliable and the Facility is fully interconnected, fully integrated, and synchronized with the System, all of which are Seller’s responsibility to receive or obtain, and which occurs when Seller has achieved the Milestones set forth in Section 2.2 and all of the following events (a) have occurred, and (b) remain simultaneously true and accurate as of the date and moment on which Seller gives PacifiCorp notice that Commercial Operation has occurred:

- (i) PacifiCorp has received a letter addressed to PacifiCorp from a Licensed Professional Engineer licensed in the state of Washington certifying: (1) the Nameplate Capacity Rating of the Facility at the anticipated time of Commercial Operation, and (2) that the Facility is able to generate electric energy reliably in amounts expected by and consistent with the terms and conditions of this Agreement;
- (ii) PacifiCorp has received a letter addressed to PacifiCorp from a Licensed Professional Engineer certifying that, in conformance with the requirements of the Generation Interconnection

Agreement: (1) all required Interconnection Facilities have been constructed, (2) all required interconnection tests have been completed, and (3) the Facility is physically interconnected with the System in conformance with the Generation Interconnection Agreement;

- (iii) PacifiCorp has received a letter from a Licensed Professional Engineer licensed in the state of Washington addressed to PacifiCorp certifying that Seller has obtained or entered into all Required Facility Documents;
- (iv) PacifiCorp has received a certificate from an officer of Seller stating that neither Seller nor the Facility are in violation of or subject to any liability under any Requirements of Law;
- (v) Seller has satisfied its obligation to pay for any network upgrades or other interconnection costs required under the Generation Interconnection Agreement (as terms are defined in the Generation Interconnection Agreement); and
- (vi) PacifiCorp has received the Default Security, as applicable.

Seller must provide written notice to PacifiCorp stating when Seller believes that the Facility has achieved Commercial Operation and its Nameplate Capacity Rating accompanied by the documentation described above. PacifiCorp must respond to Seller's notice within ten (10) Business Days of receipt of a notice satisfying the requirements of the preceding sentence. If PacifiCorp does not respond to Seller's complying notice within such time period, the Commercial Operation Date will be the date of PacifiCorp's receipt of such complying notice from Seller. If PacifiCorp informs Seller within such ten (10) Business Day period that PacifiCorp believes the Facility has not achieved Commercial Operation, identifying the specific areas of deficiency, Seller must address the concerns stated in PacifiCorp's deficiency notice to the reasonable satisfaction of PacifiCorp; the Commercial Operation Date will then be the date that the matters identified in PacifiCorp's deficiency notice have been addressed to PacifiCorp's reasonable satisfaction.

"Commercial Operation Date" means the date that Commercial Operation is achieved for the Facility but in no event earlier than thirty (90) days before the Scheduled Commercial Operation Date.

"Commission" means the Washington Utilities and Transportation Commission.

"Conditional DNR Notice" is defined in Section 4.2.

"Contract Interest Rate" means the lesser of (a) the highest rate permitted under Requirements of Law or (b) 200 basis points per annum plus the rate per annum equal to the publicly announced prime rate or reference rate for commercial loans to large businesses in effect from time to time quoted by Citibank, N.A. as its "prime rate." If a Citibank, N.A. prime rate is not available, the applicable prime rate will be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest is being paid.

"Contract Price" means the applicable price, expressed in \$/MWh, for Net Output and Capacity Rights stated in Section 5.1.<sup>1</sup>

"Contract Year" means any consecutive twelve (12) month period during the Term, commencing at 00:00 hours on the Commercial Operation Date or any of its anniversaries and ending at 24:00 hours on the last day of such twelve (12) month period.

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<sup>1</sup> **Note to Form** – The Contract Price in this form of agreement assumes that the QF Seller requests a fixed price determined at the time of contract execution. This form of agreement will be revised if the QF Seller requests that pricing be determined at the time of delivery of Net Output.



“Credit Requirements” means (1) a senior, unsecured long term debt rating (or corporate rating if such debt rating is unavailable) of (a) ‘BBB+’ or greater from S&P, or (b) ‘Baa1’ or greater from Moody’s; provided that if such ratings are split, the lower of the two ratings must be at least ‘BBB+’ or ‘Baa1’ from S&P or Moody’s; or (2) if (1) (a) or (b) is not available, (a) an equivalent rating as determined by PacifiCorp through an internal process review and utilizing a proprietary credit scoring model developed in conjunction with a third party or, (b) in the event the Nameplate Capacity Rating of the Facility is 2 MW or less, that the representations and warranties of Seller in Section 3.2.10 are true and accurate subject to verification by PacifiCorp based on financial information provided by Seller.

“Default Security” is an amount equal to fifty dollars (\$50) per kW of the final Nameplate Capacity Rating.

“Delay Damages” for any given day are equal to (a) the Expected Net Output for the Facility, expressed in MWhs per year, divided by 365, multiplied by (b) PacifiCorp’s Cost to Cover.

“Effective Date” is defined in Section 2.1.

“Electric System Authority” means each of NERC, WECC, WREGIS, an RTO, a regional or sub-regional reliability council or authority, and any other similar council, corporation, organization or body of recognized standing with respect to the operations of the electric system in the WECC region, as such are applicable to the Seller or PacifiCorp.

“Environmental Attributes” means any and all claims, credits, benefits, emissions reductions, offsets, and allowances associated with the avoidance of the emission of any gas, chemical, or other substance to the air, soil or water. Environmental Attributes include: (a) any avoided emissions of pollutants to the air, soil, or water such as sulfur oxides, nitrogen oxides, carbon monoxide, and other pollutants; and (b) any avoided emissions of carbon dioxide, methane, and other greenhouse gases that have been determined by any Governmental Authority to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere. Environmental Attributes do not include (i) Tax Credits or other tax incentives existing now or in the future associated with the construction, ownership or operation of the Facility, (ii) matters designated by PacifiCorp as sources of liability, or (iii) adverse wildlife or environmental impacts.

“Environmental Contamination” means the introduction or presence of Hazardous Materials at such levels, quantities or location, or of such form or character, as to constitute a violation of federal, state or local laws or regulations, and present a material risk under federal, state or local laws and regulations that the Premises will not be available or usable for the purposes contemplated by this Agreement.

“Event of Default” is defined in Section 11.1.

“Excused Delay” means the failure of Seller to achieve Commercial Operation on or before the Scheduled Commercial Operation Date, but only to the extent such failure is caused by an event of Force Majeure or an Event of Default by PacifiCorp, a default by PacifiCorp under the Generation Interconnection Agreement or related interconnection study agreement(s) for Seller’s Facility, including a default resulting from any breach by PacifiCorp of any obligation to meet a material deadline included in such agreement(s), or PacifiCorp’s violation of applicable tariff provisions governing the interconnection of Seller’s Facility; provided that the duration of any Excused Delay shall not extend to any period of delay that could have been prevented had Seller taken mitigating actions using commercially reasonable efforts.

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

“Expected Net Output” means 11,511 MWh of Net Output in the first full Contract Year reduced, as applicable, by an annual degradation factor of 0.5% per Contract Year, measured at the Point of Delivery. Seller estimates that the Net Output will be delivered during each Contract Year according to the

Expected Monthly Net Output provided in Exhibit A, as reduced each Contract Year, as applicable, by the annual degradation factor.

“Facility” is defined in the Recitals and is more fully described in attached Exhibit B and includes all equipment, devices, associated appurtenances owned, controlled, operated and managed by Seller in connection with, or to facilitate, the production, generation, transmission, delivery, or furnishing of electric energy by Seller to PacifiCorp and required to interconnect with the System.

“FERC” means the Federal Energy Regulatory Commission.

“Firm Market Price Index” means the hourly value calculated based on the average prices reported by the Intercontinental Exchange, Inc. (“ICE”) Day-Ahead Mid-C On-Peak Index and the ICE Day-Ahead Mid-C Off-Peak Index (each an “ICE Index”) for a given day, weighted by the count of hours for each ICE Index on such day, multiplied by the hourly CAISO day-ahead market locational marginal price for the “PACW. DGAP\_PACW-APND” location, and divided by the average of the same CAISO index over all hours in such day. If applicable, the resulting value will be reduced by the integration costs specified in the then-current PacifiCorp Washington Schedule QF as applicable to the Facility. If any index is not available for a given period, the Firm Market Price Index will be the average price derived from days in which all published data is available, for the same number of days immediately preceding and immediately succeeding the period in which an index was not available, regardless of which days of the week are used for this purpose. If the Firm Market Price Index or its replacement or any component of that index or its replacement ceases to be published or available, or useful for its intended purpose under this Agreement, during the Term, the Parties must agree upon a replacement Firm Market Price Index or component that, after any necessary adjustments, provides the most reasonable substitute quotation of the hourly price of electricity for the applicable periods.

“Force Majeure” is defined in Section 14.1.

“Forced Outage” means NERC Event Types U1, U2 and U3, as provided in attached Exhibit J, and specifically excludes any Maintenance Outage or Planned Outage.

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

“Governmental Authority” means any supranational, federal, state or other political subdivision thereof, having jurisdiction over Seller, PacifiCorp or this Agreement, including any municipality, township or county, and any entity or body exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including any corporation or other entity owned or controlled by any of the foregoing.

“Hazardous Materials” means any waste or other substance that is listed, defined, designated or classified as or determined to be hazardous under or pursuant to any environmental law or regulation.

“Indemnified Party” is defined in Section 6.2.3(b).

“Interconnection Facilities” means all the facilities installed, or to be installed, for the purpose of interconnecting the Facility to the System, including electrical transmission lines, upgrades, transformers and associated equipment, substations, relay and switching equipment, and safety equipment.

“Interconnection Provider” means PacifiCorp Transmission.

“KW” means kilowatt.

“Lender” means an entity lending money or extending credit (including any financing lease, monetization of tax benefits, transaction with a tax equity investor, back leverage financing or credit derivative

arrangement) to Seller or Seller's Affiliates (a) for the construction, term or permanent financing or refinancing of the Facility, (b) for working capital or other ordinary business requirements for the Facility (including for the maintenance, repair, replacement or improvement of the Facility), (c) for any development financing, bridge financing, credit support, and related credit enhancement or interest rate, currency, weather, or Environmental Attributes in connection with the development, construction or operation of the Facility, or (d) for the purchase of the Facility and related rights from Seller.

"Letter of Credit" means an irrevocable standby letter of credit in a form reasonably acceptable to PacifiCorp, naming PacifiCorp as the party entitled to demand payment and present draw requests that:

- (1) is issued by a Qualifying Institution;
- (2) by its terms, permits PacifiCorp to draw up to the face amount thereof for the purpose of paying any and all amounts owing by Seller under this Agreement;
- (3) permits PacifiCorp to draw the entire amount available if such letter of credit is not renewed or replaced at least thirty (30) Business Days prior to its stated expiration date;
- (4) permits PacifiCorp to draw the entire amount available if such letter of credit is not increased or replaced as and when provided in Section 8;
- (5) is transferable by PacifiCorp to any party to which PacifiCorp may assign this Agreement; and
- (6) remains in effect for at least ninety (90) days after the end of the Term.

"Liabilities" is defined in Section 12.1.1.

"Licensed Professional Engineer" means a person proposed by Seller and acceptable to PacifiCorp in its reasonable judgment who (a) to the extent mandated by Requirements of Law is licensed to practice engineering in the appropriate engineering discipline for the required certification being made, in the United States, and in all states for which the person is providing a certification, evaluation or opinion with respect to matters or Requirements of Law specific to such state, (b) has training and experience in the engineering disciplines relevant to the matters with respect to which such person is called upon to provide a certification, evaluation or opinion, (c) is not an employee of Seller or an Affiliate, and (d) is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or a representative of a manufacturer or supplier of any equipment installed in the Facility.

"Maintenance Outage" means NERC Event Type MO, as provided in attached Exhibit J, and includes any outage involving ten percent (10%) of the Facility's Net Output that is not a Forced Outage or a Planned Outage.

"Market Operator" means the California Independent System Operator or any other entity performing the market operator function for any organized day-ahead or intra-hour market.

"Maximum Delivery Rate" means the maximum hourly rate of delivery of Net Output in MWh from the Facility to the Point of Delivery, calculated on the basis of the Net Output delivered in an hour accruing at an average rate equivalent to the actual Nameplate Capacity Rating, as stated in Exhibit A.

"Moody's" means Moody's Investor Services, Inc.

"MW" means megawatt.

"MWh" means megawatt-hour.

“Nameplate Capacity Rating” means the maximum installed instantaneous generation capacity of the completed Facility, expressed in MW (AC), when operated in compliance with the Generation Interconnection Agreement and consistent with the recommended power factor and operating parameters provided by the manufacturer of the generator. The Nameplate Capacity Rating of the Facility is 2.99 MW, as reflected in the Seller’s FERC Form 556.

“NERC” means the North American Electric Reliability Corporation.

“Net Output” means all energy and capacity produced by the Facility, less station use and less transformation and transmission losses and other adjustments (e.g., Seller’s load other than station use), if any. For purposes of calculating payment under this Agreement, Net Output of energy will be the amount of energy flowing through the Point of Delivery.

“Network Resource” is defined in the Tariff.

“Off-Peak Hours” has the meaning as provided in Schedule QF, as attached in Exhibit K.

“On-Peak Hours” has the meaning as provided in Schedule QF, as attached in Exhibit K.

“Output” means all energy produced by the Facility.

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

“PacifiCorp” is defined in the Recitals, and explicitly excludes PacifiCorp Transmission.

“PacifiCorp Indemnitees” is defined in Section 12.1.1.

“PacifiCorp Representatives” is defined in Section 6.14.

“PacifiCorp Transmission” means PacifiCorp, an Oregon corporation, acting in its interconnection or transmission function capacity.

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

“Party” and “Parties” are defined in the Recitals.

“Permits” means the permits, licenses, approvals, certificates, entitlements and other authorizations issued by Governmental Authorities required for the construction, ownership or operation of the Facility or occupancy of the Premises.

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

“Point of Delivery” means the point of interconnection between the Facility and the System, as specified in the Generation Interconnection Agreement and as further described in Exhibit C.

“Premises” means the real property on which the Facility is or will be located, as more fully described on Exhibit B.

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

“Prudent Electrical Practices” means any of the practices, methods and acts engaged in or approved by a significant portion of the independent electric power generation industry for facilities of similar size and characteristics or any of the practices, methods or acts, which, in the exercise of reasonable judgment in the light of the facts known at the time a decision is made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition.

“PURPA” means the Public Utility Regulatory Policies Act of 1978.

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

“Qualifying Institution” means a United States commercial bank or trust company organized under the laws of the United States of America or a political subdivision thereof having assets of at least \$10,000,000,000 (net of reserves) and a credit rating on its long-term senior unsecured debt of at least ‘A’ from S&P and ‘A2’ from Moody’s.

“Required Facility Documents” means the Permits and other authorizations, rights and agreements necessary for construction, ownership, operation, and maintenance of the Facility, and to deliver the Net Output to PacifiCorp in accordance with this Agreement and Requirements of Law, including those listed in Exhibit D.

“Requirements of Law” means any applicable federal, state and local law, statute, regulation, rule, action, order, code or ordinance enacted, adopted, issued or promulgated by any Governmental Authority (including those pertaining to electrical, building, zoning, environmental and wildlife protection, and occupational safety and health).

“Rolling Period” means every consecutive twelve (12) month period commencing with the Commercial Operation Date through the last hour of the Term; provided, however, that the month in which the Commercial Operation Date occurs will be considered a full month for purposes of establishing the first Rolling Period.

“RTO” means any entity (including an independent system operator) that becomes responsible as system operator for, or directs the operation of, the System.

“S&P” means Standard & Poor’s Rating Group (a division of S&P Global, Inc.).

“Schedule QF” means Pacific Power Washington Schedule No. QF as attached in Exhibit K, and as approved by the Commission on the Effective Date.

“Schedule Recovery Plan” means a written recovery plan, approved by PacifiCorp, an initial draft of which Seller shall submit to PacifiCorp (i) within five (5) Business Days after Seller’s receipt of a written request from PacifiCorp in the event of Seller’s Abandonment of the Facility under clause (b) of the definition thereof or (ii) by the Scheduled Commercial Operation Date in the event of Seller’s failure to achieve Commercial Operation by the Scheduled Commercial Operation Date. The Schedule Recovery Plan shall include a detailed plan to complete all necessary work to achieve Commercial Operation by the Scheduled Commercial Operation Date, in the case of Abandonment, or, in the case of failure to achieve Commercial Operation by the Scheduled Commercial Operation Date, by the first to occur of (i) the date that occurs one hundred eighty (180) days following the Scheduled Commercial Operation Date or (ii) the date that occurs on the third (3<sup>rd</sup>) anniversary of the Effective Date (“Cure Period Deadline”). Upon its receipt of a draft recovery plan, PacifiCorp shall promptly approve or submit reasonable revisions to it. Seller promptly shall incorporate any such revisions into the plan and resubmit it to PacifiCorp for approval. Upon approval of the revised plan by PacifiCorp, Seller shall diligently prosecute the work in accordance with the Schedule Recovery Plan. Seller shall be responsible for any costs or expenses incurred by Seller as a result of the formulation and implementation of the Schedule Recovery Plan. Approval by PacifiCorp of such plan shall not be deemed in any way to have relieved Seller of its

obligations under this Agreement relating to the failure to timely achieve Commercial Operation by the Scheduled Commercial Operation Date or be a basis for any increase in the Contract Price or other claim against PacifiCorp.

“Scheduled Commercial Operation Date” means September 30, 2023, subject to extension for Excused Delay as provided in Section 2.7. The Scheduled Commercial Operation Date must be a date that occurs ninety (90) days or more after the Effective Date but no later than the third (3<sup>rd</sup>) anniversary of the Effective Date.

“Seller” is defined in the Recitals.

“Seller Indemnitees” is defined in Section 12.1.2.

“Seller’s Cost to Cover” means the positive difference, if any, between (a) the Contract Price per MWh, and (b) the net proceeds per MWh actually realized by Seller from the sale to a third party of Net Output not purchased by PacifiCorp as required under this Agreement.

“Seller Uncontrollable Minutes” means, for the Facility in any Rolling Period, the total number of minutes during such Rolling Period during which the Facility was unable to deliver Net Output to PacifiCorp (or during which PacifiCorp failed to accept such delivery) due to one or more of the following events, each as recorded by Seller’s SCADA and indicated by Seller’s electronic fault log: (a) an emergency or Force Majeure event; (b) to the extent not caused by Seller’s actions or omissions, a curtailment in accordance with Section 4.5; (c) Planned Outages, but in no event exceeding 200 hours per Contract Year; and (d) a default by PacifiCorp; provided, however, that if any of the events described above in items (a) through (d) occur simultaneously, then the relevant period of time will only be counted once in order to prevent double counting. Seller Uncontrollable Minutes do not include minutes when (i) the Facility or any portion thereof was unavailable solely due to Seller’s non-conformance with the Generation Interconnection Agreement or (ii) the Facility or any portion thereof was paused or withdrawn from use by Seller for reasons other than those covered in this definition.

“System” means the electric transmission substation and transmission or distribution facilities owned, operated or maintained by Transmission Provider, which includes the circuit reinforcements, extensions, and associated terminal facility reinforcements or additions required to interconnect the Facility, all as provided in the Generation Interconnection Agreement.

“Tariff” means PacifiCorp’s Open Access Transmission Tariff on file with FERC, as such tariff is revised from time to time.

“Tax Credits” means any state, local and federal production and investment tax credits, tax deductions, or other tax benefits specific to the production of renewable energy or investments in renewable energy facilities.

“Term” is defined in Section 2.1.

“Termination Damages” is defined in Section 11.5.

“Transmission Provider” means PacifiCorp Transmission, including PacifiCorp’s business unit responsible for the safe and reliable operation of PacifiCorp’s balancing authority areas.

“WECC” means the Western Electricity Coordinating Council.

## 1.2 Rules of Interpretation.

1.2.1 General. Unless otherwise required by the context in which any term appears, (a) the singular includes the plural and vice versa; (b) references to “Articles,” “Sections,” “Schedules,” “Appendices” or



“Exhibits” are to articles, sections, schedules, appendices or exhibits of this Agreement; (c) all references to a particular entity or an electricity market price index include a reference to such entity’s or index’s successors; (d) “herein,” “hereof” and “hereunder” refer to this Agreement as a whole; (e) all accounting terms not specifically defined in this Agreement must be construed in accordance with generally accepted accounting principles, consistently applied; (f) the masculine includes the feminine and neuter and vice versa; (g) “including” means “including, without limitation” or “including, but not limited to”; (h) all references to a particular law or statute mean that law or statute as amended from time to time; (i) all references to energy or capacity are to be interpreted as utilizing alternating current, unless expressly stated otherwise; and (j) the word “or” is not necessarily exclusive. Reference to “days” means calendar days, unless expressly stated otherwise in this Agreement.

1.2.2 Terms Not to be Construed For or Against Either Party. Each term in this Agreement must be construed according to its fair meaning and not strictly for or against either Party.

1.2.3 Headings. The headings used for the sections and articles of this Agreement are for convenience and reference purposes only and in no way affect the meaning or interpretation of the provisions of this Agreement.

1.2.4 Interpretation with FERC Orders. Each Party conducts its operations in a manner intended to comply with FERC Order No. 717, Standards of Conduct for Transmission Providers, and its companion orders, requiring the separation of its transmission and merchant functions. Moreover, the Parties acknowledge that Interconnection Provider’s transmission function offers transmission service on its system in a manner intended to comply with FERC policies and requirements relating to the provision of open-access transmission service.

- (a) The Parties acknowledge and agree that the Generation Interconnection Agreement is a separate and free standing contract and that the terms of this Agreement are not binding upon the Interconnection Provider.
- (b) Notwithstanding any other provision in this Agreement, nothing in the Generation Interconnection Agreement, nor any other agreement between Seller on the one hand and Transmission Provider or Interconnection Provider on the other hand, nor any alleged event of default under the Generation Interconnection Agreement, will alter or modify the Parties’ rights, duties, and obligations in this Agreement. This Agreement will not be construed to create any rights between Seller and the Interconnection Provider or between Seller and the Transmission Provider.
- (c) Seller acknowledges that, for purposes of this Agreement, consistent with FERC Order No. 717, Standards of Conduct for Transmission Providers, and its companion orders, the Interconnection Provider and Transmission Provider are deemed separate entities and separate contracting parties from PacifiCorp. Seller acknowledges that PacifiCorp, acting in its merchant capacity function as purchaser in this Agreement, has no responsibility for or control over Interconnection Provider or Transmission Provider.

## **SECTION 2**

## TERM; MILESTONES

2.1 Term. This Agreement is effective when executed and delivered by both Parties (the “Effective Date”) and, unless earlier terminated as provided in this Agreement or as modified pursuant to Sections 2.7 of this Agreement, remains in effect until the later to occur of last day of the fifteen (15) year period following the Effective Date and the last day of the twelve (12) year period following the Commercial Operation Date (the “Term”).

2.2 Milestones. Time is of the essence in the performance of this Agreement, and Seller’s completion of the Facility and delivery of Net Output by the Scheduled Commercial Operation Date is critically important. Therefore, Seller must achieve the milestones provided in (a) through (e) below at the times so indicated.

- (a) Seller must provide a fully executed and effective Generation Interconnection Agreement to PacifiCorp before the Scheduled Commercial Operation Date.
- (b) If and to the extent required by this Agreement, on or before the thirtieth (30th) day following the Effective Date, Seller must post the Project Development Security.
- (c) If and to the extent required by this Agreement, on or before the Commercial Operation Date, Seller must post the Default Security.
- (d) Seller must provide PacifiCorp with documentation showing that Seller has obtained retail electric service for the Facility before the Commercial Operation Date.
- (e) Seller must cause the Facility to achieve Commercial Operation on or before the Scheduled Commercial Operation Date.

### 2.3 Delay Damages; Schedule Recovery Plan.

(a) If Commercial Operation is not achieved on or before the Scheduled Commercial Operation Date, Seller must (i) pay to PacifiCorp Delay Damages from and after the Scheduled Commercial Operation Date up to, but not including, the earlier to occur of the date that the Facility achieves Commercial Operation and the date of termination as provided in Section 2.3(b), if applicable, and (ii) deliver a Schedule Recovery Plan to PacifiCorp no later than the Scheduled Commercial Operation Date.

(b) If the Facility does not achieve Commercial Operation by the Scheduled Commercial Operation Date, PacifiCorp may terminate this Agreement under, and subject to, Section 11.1.2(b).

2.4 Damages Calculation. Each Party agrees that the damages PacifiCorp would incur due to Seller’s delay in achieving Commercial Operation are difficult or impossible to predict with certainty, and that it is impractical and difficult to assess actual damages in the circumstances stated. Except for termination damages determined in accordance with Section 11.5, the Parties agree that Delay Damages are PacifiCorp’s exclusive remedy for a delay in achieving Commercial Operation and believe that Delay Damages fairly represent actual damages.

2.5 Damages Invoicing. By the tenth (10<sup>th</sup>) day following the end of the calendar month in which Delay Damages begin to accrue and continuing on the tenth (10<sup>th</sup>) day of each subsequent calendar month while such Delay Damages continue to accrue, PacifiCorp will deliver to Seller an invoice for the amount of Delay Damages due PacifiCorp. No later than ten (10) days after receiving such an invoice and subject to Sections 10.3 and 10.4, Seller must pay to PacifiCorp, by wire transfer of immediately available funds to an account specified in writing by PacifiCorp, the amount stated in such invoice.

2.6 PacifiCorp’s Right to Monitor. During the Term, Seller will allow PacifiCorp to monitor and will provide monthly updates to PacifiCorp concerning (a) the progress of Seller regarding the acquisition,



design, financing, engineering, construction and installation of the Facility, and (b) the contractors' performance of tests required to achieve Commercial Operation. Seller must provide PacifiCorp at least one hundred and twenty (120) days prior notice of each such performance test. Notwithstanding the foregoing, nothing in this Agreement will be construed to require PacifiCorp to monitor Seller's development of the Facility or to review, comment on, or approve any contract between Seller and a third party.

2.7 Excused Delay. If Seller fails to achieve Commercial Operation on or before the Scheduled Commercial Operation Date due to an Excused Delay, the Scheduled Commercial Operation Date shall be deemed extended on a day-for-day basis to match the duration of such Excused Delay, subject to Section 14.5 in the event that the Excused Delay is caused by a Force Majeure event. Upon the request of Seller, and provided that the existence or duration of any Excused Delay is not the subject of a good faith dispute between the Parties and no Seller Event of Default has occurred and is continuing, PacifiCorp agrees to provide reasonable assurances to Seller's Lenders and other financial institutions that the Scheduled Commercial Operation Date has been extended under this Section 2.7.

### **SECTION 3 REPRESENTATIONS AND WARRANTIES**

3.1 Mutual Representations and Warranties. Each Party represents and warrants to the other that:

3.1.1 Organization. It is duly organized and validly existing under the laws of the State of its organization.

3.1.2 Authority. It has the requisite power and authority to enter this Agreement and to perform according to its terms.

3.1.3 Corporate Actions. It has taken all corporate actions required to be taken by it to authorize the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated.

3.1.4 No Contravention. The execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, security instrument or undertaking, or other material agreement to which it is a party or by which it is bound, or any valid order of any court, or any regulatory agency or other Governmental Authority having authority to which it is subject.

3.1.5 Valid and Enforceable Agreement. This Agreement is a valid and legally binding obligation of it, enforceable in accordance with its terms, except as enforceability may be limited by general principles of equity or bankruptcy, insolvency, bank moratorium or similar laws affecting creditors' rights generally and laws restricting the availability of equitable remedies.

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

3.2.1 Authority. Seller (a) has (or will have prior to the Commercial Operation Date) all required regulatory authority to make wholesale sales from the Facility; (b) has the power and authority to own and operate the Facility and be present upon the Premises for the Term; and (c) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property, or the conduct of its business requires such qualification.

3.2.2 No Contravention. The execution, delivery, performance and observance by Seller of its obligations in this Agreement do not and will not:

- (a) contravene, conflict with or violate any provision of any material Requirements of Law presently in effect having applicability to either Seller or any owner of Seller;

- (b) require the consent or approval of or material filing or registration with any Governmental Authority or other person other than consents and approvals which are (i) provided in Exhibit D or (ii) required in connection with the construction or operation of the Facility and expected to be obtained in due course; or
- (c) result in a breach of or constitute a default under any provision of (i) any security issued by Seller or any owner of Seller, the effect of which would materially and adversely affect Seller's performance of, or ability to perform, its obligations in this Agreement, or (ii) any material agreement, instrument or undertaking to which either Seller or any owner or other Affiliate of Seller is a party or by which the property of either Seller or any owner or other Affiliate of Seller is bound, the effect of which would materially and adversely affect Seller's performance of, or ability to perform, its obligations in this Agreement.

3.2.3 Required Facility Documents. All Required Facility Documents are listed on Exhibit D. Pursuant to the Required Facility Documents, Seller holds as of the Effective Date, or will hold by the Commercial Operation Date (or such other later date as may be specified under Requirements of Law), and will maintain for the Term all Required Facility Documents. The anticipated use of the Facility complies with all applicable restrictive covenants affecting the Premises. Following the Commercial Operation Date, Seller must promptly notify PacifiCorp of any additional Required Facility Documents. If reasonably requested by PacifiCorp, Seller must provide copies of any or all Required Facility Documents.

3.2.4 Delivery of Energy. Before the Commercial Operation Date, Seller must hold all rights sufficient to enable Seller to deliver Net Output at the Nameplate Capacity Rating from the Facility to the Point of Delivery pursuant to this Agreement throughout the Term.

3.2.5 Control of Premises. Seller has all legal rights necessary for the Seller to enter upon and occupy the Premises for the purpose of constructing, operating and maintaining the Facility for the Term. All leases of real property required for the operation of the Facility or the performance of any obligations of Seller in this Agreement are identified in Exhibit E. Seller must maintain all leases or other land grants necessary for the construction, operation and maintenance of the Facility. Upon request by PacifiCorp, Seller must provide copies of the memoranda of lease recorded in connection with the development of the Facility.

3.2.6 Litigation. No litigation, arbitration, investigation or other proceeding is pending or, to the best of Seller's knowledge, threatened against Seller or any Affiliate of Seller, with respect to this Agreement, the Facility, or the transactions contemplated in this Agreement. No other investigation or proceeding is pending or threatened against Seller or any Affiliate of Seller, the effect of which would materially and adversely affect Seller's performance of its obligations in this Agreement.

3.2.7 Eligible Contract Participant. Seller, and any guarantor of its obligations under this Agreement, is an "eligible contract participant" as that term is defined in the United States Commodity Exchange Act.

3.2.8 Undertaking of Agreement; Professionals and Experts. Seller has engaged those professional or other experts it believes necessary to understand its rights and obligations pursuant to this Agreement. In entering into this Agreement and agreeing to undertake the obligations within, Seller has investigated and determined that it is capable of performing and has not relied upon the advice, experience or expertise of PacifiCorp in connection with the transactions contemplated by this Agreement.

3.2.9 Verification. All information relating to the Facility, its operation and output provided to PacifiCorp and contained in this Agreement has been verified by Seller and is true and accurate.

3.2.10 Credit Representations and Warranties. If Seller is meeting the Credit Requirements under clause 2(b) of the definition thereof:

- (a) 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.

(b) Neither Seller nor any of its principal equity owners is or has at any time defaulted in any of its payment obligations for electricity purchased from PacifiCorp.

(c) Seller is not in default under any of its other agreements and is current on all financial obligations, including construction related financial obligations.

(d) Seller owns and will continue to own through 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. 3.3 No Other Representations or Warranties. Each Party acknowledges that it has entered into this Agreement in reliance upon only the representations and warranties provided in this Agreement, and that no other representations or warranties have been made by the other Party with respect to the subject matter.

3.4 Continuing Nature of Representations and Warranties; Notice. The representations and warranties provided in this Section 3 are made as of the Effective Date and deemed repeated as of the Commercial Operation Date. If at any time during the Term, either Party obtains actual knowledge of any event or information that would have caused any of the representations and warranties in this Agreement to be materially untrue or misleading at the time given, such Party must 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 by this section must be given as soon as practicable after the occurrence of each such event.

#### **SECTION 4 DELIVERIES OF NET OUTPUT**

4.1 Purchase and Sale. Subject to the provisions of this Agreement, Seller must sell and make available to PacifiCorp, and PacifiCorp must purchase and receive the entire Net Output from the Facility at the Point of Delivery. PacifiCorp is under no obligation to make any purchase other than Net Output and is not obligated to purchase, receive or pay for Net Output that is not delivered to the Point of Delivery.

4.2 Designation as Network Resource. Within five (5) Business Days following the Effective Date, PacifiCorp will submit an application to the Transmission Provider requesting designation of the Facility as a Network Resource, thereby authorizing transmission service under PacifiCorp's Network Integration Transmission Service Agreement with the Transmission Provider. If PacifiCorp is notified in writing by the Transmission Provider that designation of the Facility as a Network Resource requires the construction of transmission system network upgrades or otherwise requires potential redispatch of other Network Resources of PacifiCorp (the "Conditional DNR Notice"), the Parties will promptly meet to determine how such conditions to the Facility's Network Resource designation may impact the Contract Price or other terms and conditions of this PPA. If, within sixty (60) days following the date of PacifiCorp's receipt of the Conditional DNR Notice, the Parties are unable to reach agreement on any necessary adjustments to ensure the Contract Price reflects an "avoided cost" price as determined by the Commission and PURPA, PacifiCorp will submit the matter to the Commission for a determination on what adjustments, if any, are appropriate as a result of the Conditional DNR Notice. The Parties reserve the right to present their respective positions to the Commission as to whether and how the Contract Price or other non-rate terms and conditions of this Agreement should be adjusted in light of the Conditional DNR Notice. In the event of a Conditional DNR Notice, Seller will have the right to terminate the Agreement upon written notice to PacifiCorp and such termination by Seller will not be an Event of Default and no damages or other liabilities under this Agreement will be owed by one Party to the other Party; provided, however, that Seller's right to terminate the Agreement under this Section 4.2 will cease following (a) any amendment of

this Agreement associated with addressing matters covered under this Section 4.2 or (b) PacifiCorp incurring costs at Seller's request in furtherance of addressing matters covered under this Section 4.2.

4.3 No Sales to Third Parties. During the Term, Seller will not sell any Net Output, energy, or Capacity Rights from the Facility to any party other than PacifiCorp; provided, however, that this restriction does not apply during periods when PacifiCorp is in default under this Agreement because it has failed to accept or purchase Net Output as required under this Agreement.

4.4 Title and Risk of Loss of Net Output. Seller must deliver Net Output to the Point of Delivery and Capacity Rights free and clear of all liens, claims and encumbrances. Title to and risk of loss of all Net Output transfers from Seller to PacifiCorp upon its delivery to PacifiCorp at the Point of Delivery. Seller is in exclusive control of, and responsible for, any damage or injury caused by, all Output up to and at the Point of Delivery. PacifiCorp is in exclusive control of, and responsible for, any damages or injury caused by, Net Output after the Point of Delivery.

4.5 Curtailment. PacifiCorp is not obligated to purchase, receive, pay for, or pay any damages associated with, Net Output not delivered to the 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 Generation Interconnection Agreement; (b) the Market Operator or Transmission Provider directs a general curtailment, reduction, or redispatch of generation in the area (which would include the Net Output) for any reason required or permitted under applicable Federal laws and regulations, NERC standards or directives, and/or tariffs of the Market Operator, Transmission Provider, or Interconnection Provider, even if and no matter how such curtailment or redispatch directive is carried out by PacifiCorp, which may fulfill such directive by acting in its sole discretion; or if PacifiCorp curtails or otherwise reduces the Net Output in any way in order to meet its obligations to the Market Operator or Transmission Provider to operate within system limitations; (c) the Facility's Output is not received because the Facility is not fully integrated or synchronized with the System; or (d) an event of Force Majeure prevents either Party from delivering or receiving Net Output. Seller will reasonably determine the MWh amount of Net Output curtailed under this Section 4.5 based on the amount of energy that could have been generated at the Facility and delivered to PacifiCorp as Net Output but that was not generated and delivered because of the curtailment. Seller must promptly provide PacifiCorp with access to such information and data as PacifiCorp may reasonably require to confirm to its reasonable satisfaction the amount of energy that was not generated or delivered because of a curtailment described in this Section 4.5.

4.6 PacifiCorp as Merchant. Seller acknowledges that PacifiCorp, acting in its merchant capacity function as purchaser under this Agreement, has no responsibility for or control over PacifiCorp Transmission, in either its capacity as Transmission Provider or Interconnection Provider, consistent with FERC Order No. 717. Notwithstanding the foregoing, it is understood and agreed that to the extent PacifiCorp has any rights or claims against PacifiCorp Transmission under the Network Integration Transmission Services Agreement and/or the Tariff with respect to any actual or alleged breach by PacifiCorp Transmission of its duties and obligations thereunder, e.g., in connection with a wrongful curtailment, etc., upon written notice from Seller that such breach adversely impacts Seller, PacifiCorp will take appropriate action and make good faith efforts to pursue applicable remedies on Seller's behalf.

4.7 Ownership of Environmental Attributes. Seller will retain all Environmental Attributes associated with the Net Output of the Facility through December 31, 2027. Subject to the terms and conditions of Section 9.5, the Environmental Attributes associated with the Net Output of the Facility beginning at 12:00 AM Pacific time on January 1, 2028 through the remainder of the Term shall be deemed assigned to PacifiCorp, and PacifiCorp will hold title thereto, without further action on the part of Seller or PacifiCorp.

4.8 Purchase and Sale of Capacity Rights. Seller transfers to PacifiCorp, and PacifiCorp accepts from Seller, any right, title, and interest that Seller may have in and to Capacity Rights, if any, existing during the Term. Seller represents that it has not sold, and covenants that during the Term it will not sell or attempt to sell to any other person or entity the Capacity Rights, if any. During the Term, Seller must not report to any person or entity that the Capacity Rights, if any, belong to anyone other than PacifiCorp.

At PacifiCorp's request, Seller must execute such documents and instruments as may be reasonably required to effect recognition and transfer of the Net Output or any Capacity Rights to PacifiCorp.

## **SECTION 5 CONTRACT PRICE; COSTS**

5.1 Contract Price; Includes Capacity Rights. PacifiCorp will pay Seller the prices stated in Exhibit K and as described in this Section 5.1 for all deliveries of Net Output and Capacity Rights, up to the Maximum Delivery Rate.

5.1.1 Deliveries Prior to the Commercial Operation Date. Beginning no earlier than ninety (90) days before the Scheduled Commercial Operation Date, PacifiCorp will pay Seller for Net Output delivered at the Point of Delivery before the Commercial Operation Date, an amount per MWh equal to the lower of (i) eighty five percent (85%) of the Firm Market Price Index for the applicable hour on the applicable day in the applicable month; and (ii) eighty five percent (85%) of the Contract Price; provided, however, that Seller's right to receive payment for energy deliveries under this Section 5.1.1 is subject to PacifiCorp's right of offset under Section 10.2 for, among other things, payment by Seller of any Delay Damages owed to PacifiCorp by Seller.

5.1.2 Commercial Operation. For the period beginning on the Commercial Operation Date and thereafter during the Term, PacifiCorp will pay to Seller the Contract Price per MWh of Net Output delivered to the Point of Delivery, as specified in Exhibit K. The Contract Price will not be adjusted if Schedule QF is modified during the Term of this Agreement. If PacifiCorp requests a modification to Schedule QF, including a modification to pricing, neither Seller nor PacifiCorp will request that any change in Schedule QF be applicable to this Agreement.

5.2 Costs and Charges. Seller is responsible for paying or satisfying when due all costs or charges imposed in connection with the scheduling and delivery of Net Output up to and at the Point of Delivery, including transmission costs, transmission line losses, and any operation and maintenance charges imposed by Interconnection Provider for the Interconnection Facilities. Except as may be determined by the Parties or the Commission otherwise, as provided in Section 4.2, PacifiCorp is responsible for all costs or charges, if any, imposed in connection with the delivery of Net Output at and from the Point of Delivery. Without limiting the generality of the foregoing, Seller, in accordance with the Generation Interconnection Agreement, is responsible for all costs associated with the modifications to Interconnection Facilities or the System (including System upgrades) caused by or related to the Facility.

5.3 Station Service. Seller is responsible for arranging and obtaining, at its sole risk and expense, station service required for the Facility that is not provided by the Facility itself.

5.4 Taxes. Seller must pay, or reimburse PacifiCorp for, all existing and any new sales, use, excise, severance, ad valorem, and any other similar taxes, imposed or levied by any Governmental Authority on the Net Output or Capacity Rights up to and including the Point of Delivery, regardless of whether such taxes are imposed on PacifiCorp or Seller under Requirements of Law. PacifiCorp must pay, or reimburse Seller for, all such taxes imposed or levied by any Governmental Authority on the Net Output or Capacity Rights beyond the Point of Delivery, regardless of whether such taxes are imposed on PacifiCorp or Seller under Requirements of Law. The Contract Price will not be adjusted on the basis of any action of any Governmental Authority with respect to changes to or revocations of sales and use tax benefits, rebates, exception or give back. In the event any taxes are imposed on a Party for which the other Party is responsible in this Agreement, the Party on which the taxes are imposed must promptly provide the other Party notice and such other information as such Party reasonably requests with respect to any such taxes.

5.5 Costs of Ownership and Operation. Without limiting the generality of any other provision of this Agreement and subject to Section 5.4, Seller is solely responsible for paying when due (a) all costs of owning and operating the Facility in compliance with existing and future Requirements of Law and the terms and conditions of this Agreement, and (b) all taxes and charges (however characterized) now



existing or later imposed on or with respect to the Facility and its operation, including any tax or charge (however characterized) payable by a generator of Environmental Attributes.

5.6 Rates Not Subject to Review. The rates for service specified in this Agreement will remain in effect until expiration of the Term, and are not subject to change for any reason, including regulatory review, absent agreement of the Parties. Neither Party will petition FERC to amend such prices or terms, or support a petition by any other person seeking to amend such prices or terms, absent the agreement in writing of the other Party.

## **SECTION 6 OPERATION AND CONTROL**

6.1 As-Built Supplement. No later than ninety (90) days following the Commercial Operation Date, Seller must provide PacifiCorp the As-Built Supplement which will be incorporated into Exhibit B of this Agreement. The Facility, as reflected in the As-Built Supplement to be provided under this Section, may not (a) have a Nameplate Capacity Rating that exceeds that stated in Exhibit B, or (b) result in the expected annual Net Output, as calculated in Exhibit A, to increase by more than ten percent (10%). Seller may not modify the Facility in a manner that materially alters the As-Built Supplement without PacifiCorp's prior written approval (which approval may not unreasonably be withheld, conditioned or delayed), provided that PacifiCorp is not required to approve any modification of the Facility that (i) results in the Facility increasing its Nameplate Capacity Rating beyond that stated in Exhibit B, or (ii) is reasonably likely to result in the expected annual Net Output, as calculated in Exhibit A, to increase by more than ten percent (10%). At the written request of Seller, PacifiCorp shall exercise reasonable efforts to maintain the confidentiality of information provided pursuant to this Section 6.1.

6.2 Standard of Facility Construction and Operation.

6.2.1 General. Seller will construct and operate all interconnected equipment associated with the Facility within its control in accordance with all applicable federal, state, and local laws and regulations to ensure system safety and reliability of interconnected operations. At Seller's sole cost and expense, Seller must operate, maintain and repair the Facility in accordance with (a) the applicable and mandatory standards, criteria and formal guidelines of FERC, NERC, any RTO, and any other Electric System Authority and any successors to the functions thereof; (b) the Permits and Required Facility Documents; (c) the Generation Interconnection Agreement; (d) all Requirements of Law; (e) the requirements of this Agreement; and (f) Prudent Electrical Practice. Except for any claims Seller may have in connection with PacifiCorp's obligation under Section 4.6 in its merchant capacity to take appropriate action and make good faith efforts to pursue applicable remedies on Seller's behalf, Seller acknowledges that it has no claim under this Agreement against PacifiCorp acting as in its capacity Transmission Provider or Interconnection Provider or with respect to the provision of station service.

6.2.2 Qualified Operator. Seller or an Affiliate of Seller must operate and maintain the Facility or cause the Facility to be operated and maintained by an entity (i) that has at least two years of experience in the operation and maintenance of similar facilities of comparable size to the Facility; or (ii) that Seller demonstrates is otherwise qualified to operate the Facility in a manner consistent with Prudent Electrical Practices and has the financial resources and qualified personnel necessary to fulfill obligations under this Agreement. Seller must provide PacifiCorp thirty (30) days prior written notice of any change in operator of the Facility.

6.2.3 Fines and Penalties.

- (a) Without limiting a Party's rights under Section 6.2.3(b), each Party must pay all fines and penalties incurred by such Party on account of noncompliance by such Party with Requirements of Law as such fines and penalties relate to the subject matter of this Agreement, except where such fines and penalties are being contested in good faith through appropriate proceedings.

- (b) If fines, penalties, or legal costs are assessed against or incurred by either Party (the "Indemnified Party") on account of any action by any Governmental Authority due to noncompliance by the other Party (the "Indemnifying Party") with any Requirements of Law or the provisions of this Agreement, or if the performance of the Indemnifying Party is delayed or stopped by order of any Governmental Authority due to the Indemnifying Party's noncompliance with any Requirements of Law, the Indemnifying Party must indemnify and hold harmless the Indemnified Party against any and all Liabilities suffered or incurred by the Indemnified Party as a result thereof. Without limiting the generality of the foregoing, the Indemnifying Party must reimburse the Indemnified Party for all fees, damages, or penalties imposed on the Indemnified Party by any Governmental Authority, other person or to other utilities for violations to the extent caused by a default by the Indemnifying Party or a failure of performance by the Indemnifying Party under this Agreement.

6.3 Interconnection. Seller is responsible for the costs and expenses associated with obtaining from the Interconnection Provider network resource interconnection service (or interconnection service of a comparable nature) for the Facility at its Nameplate Capacity Rating. Seller has no claims under this Agreement against PacifiCorp, acting in its merchant function capacity, with respect to any requirements imposed by or damages caused by (or allegedly caused by) acts or omissions of the Transmission Provider or Interconnection Provider, acting in such capacities, in connection with the Generation Interconnection Agreement or otherwise.

6.4 Coordination with System. Seller's delivery of electricity to PacifiCorp under this Agreement must be at a voltage, phase, power factor, and frequency as reasonably specified by PacifiCorp. Seller will furnish, install, operate, and maintain in good order and repair, and without cost to PacifiCorp, such switching equipment, relays, locks and seals, breakers, automatic synchronizers, and other control and protective apparatus determined by PacifiCorp to be reasonably necessary for the safe and reliable operation of the Facility in parallel with the System, or Seller may contract with PacifiCorp to do so at the Seller's expense. PacifiCorp must at all times have access to all switching equipment capable of isolating the Facility from the System.

6.5 Outages.

6.5.1 Planned Outages. Seller must provide PacifiCorp with an annual forecast of Planned Outages for each Contract Year at least one month, but no more than three months, before the first day of that Contract Year, and may update such Planned Outage schedule as necessary to comply with Prudent Electrical Practices. Any such update to the Planned Outage schedule must be promptly submitted to PacifiCorp. Except as may be required in the Generation Interconnection Agreement, Seller may not schedule a Planned Outage during any portion of the months of December and July, except to the extent reasonably required to enable a vendor to satisfy a guarantee requirement.

6.5.2 Maintenance Outages. If Seller reasonably determines that it is necessary to schedule a Maintenance Outage, Seller must notify PacifiCorp of the proposed Maintenance Outage as soon as practicable but in any event at least five (5) days before the outage begins. Seller must take all reasonable measures consistent with Prudent Electrical Practices to not schedule any Maintenance Outage during the months of December and July. Notice of a proposed Maintenance Outage by Seller must include 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. PacifiCorp will promptly respond to such notice and may request reasonable modifications in the schedule for the outage. Seller must use all reasonable efforts to comply with any request to modify the schedule for a Maintenance Outage provided that such change has no substantial impact on Seller. Once the Maintenance Outage has commenced, Seller must keep PacifiCorp apprised of any changes in the generation capacity available from the Facility during the Maintenance Outage and any changes in the expected Maintenance Outage completion date and time. As soon as practicable, any notifications given orally must be confirmed in writing. Seller must take all reasonable measures consistent with Prudent Electrical Practices to minimize the frequency and duration of Maintenance Outages.

6.5.3 Forced Outages. Seller must promptly provide to PacifiCorp an oral report, via telephone to a number specified by PacifiCorp (or other method approved by PacifiCorp), of any Forced Outage resulting in more than ten percent (10%) of the Nameplate Capacity Rating of the Facility being unavailable. This report from Seller must include the amount of the generation capacity of the Facility that will not be available because of the Forced Outage and the expected return date of such generation capacity. Seller must promptly update the report as necessary to advise PacifiCorp of changed circumstances. As soon as practicable, the oral report must be confirmed in writing to PacifiCorp. Seller must take all reasonable measures consistent with Prudent Electrical Practices to avoid Forced Outages and to minimize their duration.

6.5.4 Notice of Deratings and Outages. Without limiting the foregoing, Seller will inform PacifiCorp, via telephone to a number specified by PacifiCorp (or other method approved by PacifiCorp), of any limitations, restrictions, deratings or outages reasonably predicted by Seller to affect more than five percent (5%) of the Nameplate Capacity rating of the Facility for the following day and will promptly update such notice to the extent of any material changes in this information.

6.5.5 Effect of Outages on Estimated Output. Seller represents and warrants that the Expected Monthly Net Output provided in Exhibit A takes into account the Planned Outages, Maintenance Outages, and Forced Outages that Seller reasonably expects to encounter in the ordinary course of operating the Facility.

## 6.6 Scheduling.

6.6.1 Cooperation and Standards. With respect to any and all scheduling requirements, (a) Seller must cooperate with PacifiCorp with respect to scheduling Net Output, and (b) each Party will designate authorized representatives to communicate with regard to scheduling and related matters arising under this Agreement. Each Party must comply with the applicable variable resource standards and criteria of any applicable Electric System Authority, as applicable.

6.6.2 Schedule Coordination. If, as a result of this Agreement, PacifiCorp is deemed by an RTO to be financially responsible for Seller's performance under the Generation Interconnection Agreement due to Seller's lack of standing as a "scheduling coordinator" or other RTO-recognized designation, qualification or otherwise, then Seller must promptly take all actions necessary to acquire such RTO-recognized standing (or must contract with a third party who has such RTO-recognized standing) so that PacifiCorp is no longer responsible for Seller's performance under the Generation Interconnection Agreement or RTO requirement.

## 6.7 Forecasting.

6.7.1 Long-Range Forecasts. Seller must, by December 1<sup>st</sup> of each year during the Term (except for the last year of the Term), provide an annual update to the expected long-term monthly/diurnal mean net energy and net capacity factor estimates (12 X 24 profile). Seller must prepare such forecasts utilizing a renewable energy resource prediction model or service that is satisfactory to PacifiCorp in the exercise of its reasonable discretion and comparable in accuracy to models or services commonly used in the industry. The forecasts provided by Seller must comply with all applicable Electric System Authority tariff procedures, protocols, rules and testing as necessary and as may be modified from time to time.

6.7.2 Day-Ahead Forecasts and Updates. At Seller's expense, PacifiCorp will solicit and obtain from a qualified renewable energy production forecasting vendor forecast data and information with respect to the Facility, including day-ahead and real-time forecasting services and provision of real-time meteorological data necessary for compliance with applicable Electric System Authority procedures, protocols, rules and testing. Upon request by PacifiCorp, Seller must provide a 24-hour telephone number that PacifiCorp may contact to determine the then-current status of the Facility. PacifiCorp will present Seller with an invoice and documentation supporting the costs of obtaining such forecasting data. Seller must pay the amount stated on the invoice within fifteen (15) days of receipt. PacifiCorp reserves the right to change the forecasting vendor in its sole discretion during the Term.



6.8 Increase in Nameplate Capacity Rating; New Project Expansion or Development. If Seller elects to increase the ability of the Facility to deliver Net Output in quantities in excess of the Maximum Delivery Rate through any means, including replacement or modification of Facility equipment or related infrastructure, PacifiCorp is not required to purchase any Net Output above the Maximum Delivery Rate. If Seller elects to build an expansion or additional project such that the Facility and the expansion or additional project would be deemed a single QF or the same site under FERC regulations, Seller may not require PacifiCorp to purchase (and PacifiCorp will have no obligation to purchase pursuant to this Agreement) the output of any such expansion or additional facility under the terms, conditions, and prices in this Agreement, but Seller may exercise any rights to enter into a new agreement for the sale of such incremental energy from such expansion or additional facility that is a QF under then-applicable laws and regulations. Seller agrees that it will not seek to avoid the obligations in this Section 6.8 through use or establishment of a special purpose entity or other Affiliate. Any such expansion or additional facility may not materially and adversely impact the ability of either Party to fulfill its obligations under this Agreement. Notwithstanding the foregoing restrictions on PacifiCorp's purchase obligation, PacifiCorp acknowledges that hydropower facilities on its system may from time-to-time deliver Net Output in excess of the Maximum Delivery Rate due to stream flow conditions, and PacifiCorp agrees, only with respect to hydropower facilities, to purchase and pay for such energy at market rates.

6.9 Telemetry. Seller must provide telemetry equipment and facilities capable of transmitting the following information concerning the Facility pursuant to the Generation Interconnection Agreement and to PacifiCorp on a real-time basis, and will operate such equipment when requested by PacifiCorp to indicate:

- (a) instantaneous MW output at the Point of Delivery;
- (b) Net Output; and
- (c) the Facility's total instantaneous generation capacity.

Commencing on the date of initial deliveries under this Agreement, Seller must also transmit or otherwise make accessible to PacifiCorp any other data from the Facility that Seller receives on a real time basis, including Net Output data. Such real time data must be made available to PacifiCorp on the same basis as Seller receives the data (e.g., if Seller receives the data in four second intervals, PacifiCorp must also receive the data in four second intervals). If Seller uses a web-based performance monitoring system for the Facility, Seller must provide PacifiCorp access to Seller's web-based performance monitoring system.

6.10 Transmission Provider Consent. Within ten (10) days of the Effective Date, Seller must execute and submit to PacifiCorp, a consent in the form provided in Exhibit H or as otherwise required by Transmission Provider, that allows PacifiCorp to read the meter and receive any and all data from the Transmission Provider relating to transmission of Output or other matters relating to the Facility without the need for further consent from Seller.

6.11 Dedicated Communication Circuit. Seller must install a dedicated direct communication circuit (which may be by common carrier telephone) between PacifiCorp and the control center in the Facility's control room or such other communication equipment as the Parties may agree.

6.12 Reports and Records.

6.12.1 Electronic Fault Log. Seller must maintain an electronic fault log of operations of the Facility during each hour of the Term commencing on the Effective Date. Seller must provide PacifiCorp with a copy of the electronic fault log within thirty (30) days after the end of the calendar month to which the fault log applies.

6.12.2 Other Information to be Provided to PacifiCorp. Following the Effective Date until the Commercial Operation Date, Seller must provide to PacifiCorp a quarterly progress report stating the percentage completion of the Facility and a brief summary of construction activity during the prior quarter and

contemplated for the next calendar quarter.

6.12.3 Information to Governmental Authorities. Seller must, promptly upon written request from PacifiCorp, provide PacifiCorp with data collected by Seller related to the construction, operation or maintenance of the Facility reasonably required for reports to any Governmental Authority or Electric System Authority, along with a statement from an officer of Seller certifying that the contents of the submittals are true and accurate to the best of Seller's knowledge. Seller must use best efforts to provide this information to PacifiCorp sufficiently in advance to enable PacifiCorp to review such information and meet any submission deadlines. PacifiCorp will reimburse Seller for all of Seller's reasonable actual costs and expenses in excess of \$5,000 per year, if any, incurred in connection with PacifiCorp's requests for information under this subsection.

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

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

6.12.6 Notice of Material Adverse Events. Seller must promptly notify PacifiCorp of receipt of written notice or actual knowledge by Seller or its Affiliates of the occurrence of any event of default under any material agreement to which Seller is a party and of any other development, financial or otherwise, which would have a material adverse effect on Seller, the Facility, or Seller's ability to develop, construct, operate, maintain or own the Facility, including any material violation of any environmental laws or regulations arising out of the construction or operation of the Facility, or the presence of Environmental Contamination at the Facility or on the Premises.

6.12.7 Notice of Litigation. Following its receipt of written notice or knowledge of the commencement of any action, suit, or proceeding before any court or Governmental Authority against Seller, its members, or any Affiliate relating to the Facility or this Agreement, or that could materially and adversely affect Seller's performance of its obligations in this Agreement, Seller must promptly notify PacifiCorp.

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

6.12.9 Confidential Treatment. The reports and other information provided to PacifiCorp under this Section 6.12 will be treated as confidential if such treatment is requested in writing by Seller at the time the information is provided to PacifiCorp, subject to PacifiCorp's rights to disclose such information pursuant to Sections 6.12.3 and 6.12.4, and pursuant to any applicable Requirements of Law. Seller will have the right to seek confidential treatment of any such information from any Governmental Authority entitled to receive such information.

6.13 Financial and Accounting Information. If PacifiCorp or one of its Affiliates determines that, under (a) the Accounting Standards Codification (ASC) 810, Consolidation of Variable Interest Entities, and (b) Requirements of Law that it may hold a variable interest in Seller, but it lacks the information necessary to make a definitive conclusion, Seller agrees to provide, upon PacifiCorp's written request, sufficient financial and ownership information so that PacifiCorp or its Affiliate may confirm whether a variable interest does exist under ASC 810 and Requirements of Law. If PacifiCorp or its Affiliate determines that,

under ASC 810, it holds a variable interest in Seller, Seller agrees to provide, upon PacifiCorp's written request, sufficient financial and other information to PacifiCorp or its Affiliate so that PacifiCorp may properly consolidate the entity in which it holds the variable interest or present the disclosures required by ASC 810 and Requirements of Law. PacifiCorp will reimburse Seller for Seller's reasonable costs and expenses, if any, incurred in connection with PacifiCorp's requests for information under this Section 6.13. Seller will have the right to seek confidential treatment of any such information from any Governmental Authority entitled to receive such information.

6.14 Access Rights. Upon reasonable prior notice and subject to the prudent safety requirements of Seller, and Requirements of Law relating to workplace health and safety, Seller must provide PacifiCorp and its authorized agents, employees and inspectors ("PacifiCorp Representatives") with reasonable access to the Facility: (a) for the purpose of reading or testing metering equipment, (b) as necessary to witness any acceptance tests, and (c) for other reasonable purposes at the reasonable request of PacifiCorp. PacifiCorp will release Seller from any and all Liabilities resulting from actions or omissions by any of the PacifiCorp Representatives in connection with their access to the Facility, except to the extent such Liabilities are caused by the intentional or negligent act or omission of Seller or its agents or Affiliates.

6.15 Performance Guaranty. Seller agrees to the Output Guarantee and related terms and conditions set forth in Exhibit F.

## **SECTION 7 QUALIFYING FACILITY STATUS**

7.1 Seller's QF Status. Seller must maintain throughout the Term the Facility's status as a QF. Seller must provide PacifiCorp with copies of any QF certification or recertification documentation within ten (10) days of its filing with any Governmental Authority. At any time during the Term, PacifiCorp may require Seller to provide PacifiCorp with evidence satisfactory to PacifiCorp in its reasonable discretion that the Facility continues to qualify as a QF under all applicable requirements.

## **SECTION 8 SECURITY AND CREDIT SUPPORT**

8.1 Provision of Security. Seller must provide security as provided below if it does not meet the Credit Requirements. If on the Effective Date PacifiCorp determined Seller satisfied the Credit Requirements, Seller must thereafter provide every three (3) months following the Effective Date all reasonable financial information necessary for PacifiCorp to verify Seller continues to satisfy the Credit Requirements.

8.2 Project Development Security. On or before the date specified in Section 2.2(b), Seller must post and maintain Project Development Security in favor of PacifiCorp in the form of either (a) a guaranty from a party that satisfies the Credit Requirements, in substantially the form attached as Exhibit G, or (b) a Letter of Credit in favor of PacifiCorp, in a form acceptable to PacifiCorp in its reasonable discretion. Seller and any entity providing a guaranty must provide within five (5) Business Days from receipt of a written request from PacifiCorp all reasonable financial records necessary for PacifiCorp to confirm the guarantor satisfies the Credit Requirements. If the Commercial Operation Date occurs after the Scheduled Commercial Operation Date and Seller has failed to pay any Delay Damages when due under this Agreement, PacifiCorp is entitled to draw upon the Project Development Security an amount equal to the Delay Damages until the Project Development Security is exhausted. PacifiCorp is also entitled to draw upon the Project Development Security for other damages if this Agreement is terminated under Section 11 because of Seller's default. Seller is no longer required to maintain the Project Development Security after the Commercial Operation Date, if no damages are owed to PacifiCorp under this Agreement and, if applicable, Default Security has been provided as required under this Agreement. Seller may elect to apply the Project Development Security toward the Default Security required by Section 8.3.

8.3 Default Security. On the date specified in Section 2.2(c), Seller must post and maintain Default Security in favor of PacifiCorp in the form of either (a) a guaranty from an entity that satisfies the Credit Requirements, in substantially the form attached hereto as Exhibit G, or (b) a Letter of Credit in favor of PacifiCorp, in a form acceptable to PacifiCorp in its reasonable discretion. Seller and any entity providing a guaranty must provide within five (5) Business Days from receipt of a written request from PacifiCorp all reasonable financial records necessary for PacifiCorp to confirm the guarantor satisfies the Credit Requirements. If no obligations remain due by Seller to PacifiCorp upon termination of the Agreement, PacifiCorp must return any remaining Default Security to Seller within sixty (60) days following the termination of the Agreement.

8.4 Security is Not a Limit on Seller's Liability. The security contemplated under this Agreement constitutes security for, but is not a limitation of, Seller's obligations under this Agreement and is not PacifiCorp's exclusive remedy for Seller's failure to perform in accordance with this Agreement. To the extent PacifiCorp draws on any security, Seller must, within thirty (30) days following such draw, replenish or reinstate the security to the full amount then required under this Agreement. If at any time Seller or Seller's credit support provider(s) fails to meet the Credit Requirements, Seller must provide replacement security meeting the requirements in this Section 8 within ten (10) Business Days after the earlier of (a) Seller's receipt of notice from any source that Seller or the credit support provider(s), as applicable, no longer meets the Credit Requirements or (b) Seller's receipt of written notice from PacifiCorp requesting the posting of alternate security.

## **SECTION 9 METERING**

9.1 Installation of Metering Equipment. At Seller's expense, metering equipment must be designed, furnished, installed, owned, inspected, tested, maintained and replaced as provided in the Generation Interconnection Agreement. Seller must reasonably cooperate with PacifiCorp in developing any metering protocols necessary for PacifiCorp to comply with the requirements of the Market Operator.

9.2 Metering. Metering must be performed at the location and in the manner specified in Exhibit C, the Generation Interconnection Agreement, and as necessary to perform Seller's obligations under this Agreement. All quantities of Net Output purchased must reflect the net amount of energy flowing onto the System at the Point of Delivery.

9.3 Inspection, Testing, Repair and Replacement of Meters. PacifiCorp has the right to periodically inspect, test, repair and replace the metering equipment that is provided for in the Generation Interconnection Agreement, without PacifiCorp assuming any obligations of Seller under the Generation Interconnection Agreement. If any of the inspections or tests disclose an error exceeding 0.5 percent (0.5%), either fast or slow, the necessary corrections will be made of previous readings for the actual period during which the metering equipment rendered inaccurate measurements if that period can be ascertained. If the actual period of error cannot be ascertained, the corrections will be made for the entire time period since the metering equipment was last inspected and verified accurate, not to exceed three (3) months. Any corrections under this Section 9.3 will be reflected as an adjustment in the next monthly invoice.

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

9.5 WREGIS Metering. If PacifiCorp owns the Environmental Attributes pursuant to Section 4.7, Seller must cause the Facility to implement all necessary generation information communications in WREGIS, and report generation information to WREGIS which may be accomplished by executing a Qualified Reporting Entity (QRE) agreement with PacifiCorp, the current form of which is attached as Exhibit M, pursuant to a WREGIS-approved meter dedicated to the Facility and only the Facility.

## **SECTION 10 BILLINGS, COMPUTATIONS AND PAYMENTS**

10.1 Monthly Invoices. On or before the tenth (10<sup>th</sup>) day following the end of each calendar month, Seller must deliver to PacifiCorp an invoice showing Seller's computation of Net Output delivered to the Point of Delivery during such month. When calculating the invoice, Seller must provide computations showing the portion of Net Output that was delivered during On-Peak Hours and the portion of Net Output that was delivered during Off-Peak Hours. If such invoice is delivered by Seller to PacifiCorp, then PacifiCorp must send to Seller, on or before the later of the twentieth (20<sup>th</sup>) day following receipt of such invoice or the thirtieth (30<sup>th</sup>) day following the end of each month, payment for Seller's deliveries of Net Output to PacifiCorp.

10.2 Offsets. Either Party may offset any payment due under this Agreement against amounts owed by the other Party pursuant under this Agreement. Either Party's exercise of recoupment and set off rights will not limit the other remedies available to such Party under this Agreement.

10.3 Interest on Late Payments. Any amounts not paid when due under this Agreement will bear interest at the Contract Interest Rate from the date due until paid.

10.4 Disputed Amounts. If either Party, in good faith, disputes any amount due under an invoice provided under this Agreement, such Party must notify the other Party of the specific basis for the dispute and, if the invoice shows an amount due, must pay that portion of the invoice that is undisputed on or before the due date. Any such notice of dispute must be provided within two (2) years of the date of the invoice in which the error first occurred. If any amount disputed by such Party is determined to be due the other Party, or if the Parties resolve the payment dispute, the amount due must be paid within five (5) Business Days after such determination or resolution, along with interest at the Contract Interest Rate from the date due until the date paid.

10.5 Audit Rights. Each Party, through its authorized representatives, has the right, at its expense upon reasonable notice and during normal business hours, to examine and copy the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made under this Agreement or to verify the other Party's performance of its obligations under this Agreement. Upon request, each Party must provide to the other Party statements evidencing the quantities of Net Output delivered at the Point of Delivery. If any statement is found to be inaccurate, a corrected statement will be issued and, subject to Section 10.4, any amount due one Party to the other Party as a result of the corrected statement will be promptly paid including the payment of interest at the Contract Interest Rate from the date of the overpayment or underpayment to the date of receipt of the reconciling payment.

## **SECTION 11 DEFAULTS AND REMEDIES**

11.1 Defaults. The following events are defaults under this Agreement, and are "Events of Defaults" after the passing of notice and cure periods, as applicable:

11.1.1 Defaults by Either Party.

- (a) A Party fails to make a payment when due under this Agreement if the failure (i) is not subject to a good faith dispute of the amount due under Section 10.4, and (ii) is not cured within fifteen (15) Business Days after the non-defaulting Party gives the defaulting Party a notice of the default.
- (b) A Party (i) makes a general assignment for the benefit of its creditors; (ii) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors, or has such a petition



filed against it and such petition is not withdrawn or dismissed within sixty (60) days after such filing; (iii) becomes insolvent; or (iv) is unable to pay its debts when due.

- (c) A Party breaches a representation or warranty in this Agreement if the breach is not cured within thirty (30) days after the non-defaulting Party gives the defaulting Party a notice of the default; provided, however, that if such default is not reasonably capable of being cured within the thirty (30) day cure period but is reasonably capable of being cured within ninety (90) days, the defaulting Party will have an additional reasonable time to cure the default, not to exceed ninety (90) days following the date of notice of the default by the non-defaulting Party, if the defaulting Party provides to the non-defaulting Party a remediation plan within fifteen (15) days following the date of notice of the default by the non-defaulting Party, the non-defaulting Party approves such remediation plan, and the defaulting Party promptly commences and diligently pursues the remediation plan.
- (d) A Party fails to perform any material obligation in this Agreement for which an exclusive remedy is not provided in the Agreement and which is not otherwise an identified Event of Default in this Agreement, if the failure is not cured within thirty (30) days after the non-defaulting Party gives the defaulting Party notice of the default; provided, however, that if such default is not reasonably capable of being cured within the thirty (30) day cure period but is reasonably capable of being cured within ninety (90) days, the defaulting Party will have an additional reasonable time to cure the default, not to exceed ninety (90) days following the date of notice of the default by the non-defaulting Party, if the defaulting Party provides to the non-defaulting Party a remediation plan within fifteen (15) days following the date of notice of the default by the non-defaulting Party, the non-defaulting Party approves such remediation plan, and the defaulting Party promptly commences and diligently pursues the remediation plan.

#### 11.1.2 Defaults by Seller.

- (a) Seller fails to post, increase, or maintain the Project Development Security or Default Security as required under this Agreement and such failure is not cured within fifteen (15) days after Seller's receipt of written notice from PacifiCorp.
- (b) Seller fails to cause the Facility to achieve Commercial Operation on or before the Scheduled Commercial Operation Date and one or more of the following events occur: (i) Seller fails to deliver a draft Schedule Recovery Plan by the Scheduled Commercial Operation Date, as provided in Section 2.3(a); (ii) Seller fails to diligently and continuously finalize and implement its Schedule Recovery Plan and such failure, in either case, is not cured within ten (10) days from the date of Seller's receipt of notice of such failure from PacifiCorp; (iii) Seller fails to achieve Commercial Operation by Cure Period Deadline.
- (c) Seller sells Output or Capacity Rights from the Facility to a party other than PacifiCorp in breach of Section 4.3, if Seller does not permanently cease such sale and compensate PacifiCorp for the damages arising from the breach within ten (10) days after PacifiCorp gives Seller a notice of default.
- (d) PacifiCorp receives notice of foreclosure of the Facility or any part thereof by a Lender, mechanic or materialman, or any other holder, of an unpaid lien or other charge or encumbrance, if the same has not been stayed, paid, or bonded around within ten (10) days of the date on which PacifiCorp provides notice to Seller that PacifiCorp has received a notice of foreclosure. An assignment in lieu of foreclosure as permitted pursuant to Article 20 of this Agreement and occurring prior to the date that is thirty (30) days after the date on which PacifiCorp provides notice to Seller that PacifiCorp has received a notice of foreclosure shall cure an Event of Default pursuant to this Section 11.1.2(d).

- (e) After the Commercial Operation Date, Seller fails to maintain any Required Facility Documents, Permits or leases/land grants necessary to own or operate the Facility and is not able to obtain the necessary Required Facility Documents or Permits within ninety (90) days after the loss of the applicable Required Facility Documents, Permits or leases/land grants.
- (f) Seller's Abandonment of construction or operation of the Facility, such Abandonment continues and no draft Schedule Recovery Plan is implemented within thirty (30) days after Seller's receipt of written notice from PacifiCorp or, in the event a Schedule Recovery Plan is implemented, Seller fails to diligently and continuously implement said Schedule Recovery Plan and such failure is not cured within thirty (30) days from the date of Seller's receipt of notice of such failure from PacifiCorp.
- (f) Seller fails to maintain insurance as required by the Agreement and such failure continues for fifteen (15) days after Seller's receipt of written notice from PacifiCorp.
- (g) Seller fails to satisfy the requirements of the Performance Guaranty for three consecutive Rolling Periods.
- (h) Seller fails to satisfy the requirement to maintain QF status under Section 7.1.

## 11.2 Remedies for Failure to Deliver/Receive.

11.2.1 Remedy for Seller's Failure to Deliver. Upon the occurrence and during the continuation of an Event of Default of Seller under Section 11.1.2(c), Seller must pay PacifiCorp within five (5) Business Days after receipt of invoice, an amount equal to the sum of (a) PacifiCorp's Cost to Cover multiplied by the Net Output delivered to a party other than PacifiCorp, (b) additional transmission charges, if any, reasonably incurred by PacifiCorp in moving replacement energy to the Point of Delivery or if not there, to such points in PacifiCorp's control area as determined by PacifiCorp, and (c) any additional cost or expense incurred as a result of Seller's default, as determined by PacifiCorp in a commercially reasonable manner. The invoice for such amount must include a written statement explaining in reasonable detail the calculation of such amount.

11.2.2 Remedy for PacifiCorp's Failure to Purchase. If PacifiCorp fails to receive or purchase all or part of the Net Output required to be purchased under this Agreement and such failure is not excused by Seller's failure to perform under or comply with this Agreement, then PacifiCorp must pay Seller, on the earlier of the date payment would otherwise be due in respect of the month in which the failure occurred or within five (5) Business Days after receipt of invoice, an amount equal to Seller's Cost to Cover multiplied by the amount of Net Output not purchased. The invoice for such amount must include a written statement explaining in reasonable detail the calculation of such amount.

11.2.3 Remedy for Seller's Failure to Provide Capacity Rights. Seller is liable for PacifiCorp's actual damages in the event Seller fails to sell or deliver all or any portion of the Capacity Rights to PacifiCorp.

11.3 Termination and Remedies. From and during the continuance of an Event of Default, the non-defaulting Party will be entitled to all remedies available at law or in equity, and may terminate this Agreement by notice to the other Party designating the date of termination and delivered to the defaulting Party no less than fifteen (15) days before such termination date. The notice required under this Section 11.3 may be provided in the notice of default (and does not have to be a separate notice) before the applicable cure period(s) have lapsed and an Event of Default has occurred provided that the non-defaulting Party complies with the terms of this Section 11.3 and that the stated termination date is no earlier than the first day following expiration of the fifteen (15) period or the first day following the expiration of the applicable cure period(s), whichever occurs last ("Earliest Termination Date"). Where Seller is the non-defaulting Party, Seller must provide copies of such termination notice to the notice addresses of the then-current President and General Counsel of PacifiCorp by registered overnight delivery service or by certified or registered mail, return receipt requested. A termination notice must state prominently in type font no smaller than 14-point capital letters that "THIS IS A TERMINATION

NOTICE UNDER A PPA. YOU MUST CURE A DEFAULT, OR THE PPA WILL BE TERMINATED,” must state any amount alleged to be owed, and must include wiring instructions for payment. Notwithstanding any other provision of this Agreement to the contrary, the non-defaulting Party will not have any right to terminate this Agreement if the default that gave rise to the termination right is cured by the Earliest Termination Date.

Further, from and after the date upon which Seller fails to remedy a default within the time periods provided in this Agreement, and until PacifiCorp has recovered all damages incurred on account of such default by Seller, PacifiCorp may offset its damages against any payment due Seller. Except in circumstances in which a remedy provided for in this Agreement is described as a Party’s sole or exclusive remedy, the non-defaulting Party may pursue any and all legal or equitable remedies provided by law, equity or this Agreement. The rights contemplated by this Section 11 are cumulative such that the exercise of one or more rights does not constitute a waiver of any other rights. In the event of a termination of this Agreement:

- (a) Each Party must pay to the other all amounts due the other under this Agreement for all periods prior to termination, subject to offset by the non-defaulting Party against damages incurred by such Party.
- (b) The amounts due under this Section 11.3 must be paid within thirty (30) days after the billing date for such charges and will bear interest at the Contract Interest Rate from the date of termination until the date paid. The foregoing does not extend the due date of, or provide an interest holiday for any payments otherwise due under this Agreement.
- (c) Without limiting the generality of the foregoing, the provisions of Sections 4.6, 5.4, 5.5, 6.12.3, 6.12.4, 6.13, 10.3, 10.4, 10.5, 11.3, 11.4, 11.5, 11.6, 11.7, 11.8, 12, 13, 16, 17, 21, and 24 survive the termination of this Agreement.

11.4 Termination of Duty to Buy. If this Agreement is terminated because of an Event of Default by Seller and Seller wishes to again sell Net Output to PacifiCorp following such termination, PacifiCorp in its sole discretion may require that Seller do so subject to the terms of this Agreement, including but not limited to the Contract Price, until the termination date. Seller agrees that it will not take any action or permit any action to occur the result of which avoids or seeks to avoid the restrictions in this Section 11.4, e.g., through use or establishment of a special purpose entity or other Affiliate.

11.5 Termination Damages. If this Agreement is terminated by PacifiCorp as a result of an Event of Default by Seller, termination damages owed by Seller to PacifiCorp will be the positive difference, if any, between (a) PacifiCorp’s estimated costs to secure replacement power for a period of twenty four (24) months following the date of termination, including any associated transmission necessary to deliver such replacement power; and (b) the Contract Price for such twenty four (24) month period (“Termination Damages”). PacifiCorp must calculate the Termination Damages in a commercially reasonable manner and provide to Seller a written statement explaining in reasonable detail the calculation of Termination Damages. Amounts owed pursuant to this Section 11.5 are due by Seller within ten (10) Business Days after receipt of the written statement of Termination Damages from PacifiCorp. Each Party agrees and acknowledges that the damages that PacifiCorp would incur due to Seller’s Event of Default would be difficult or impossible to predict with certainty, it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Termination Damages as agreed to in this Section 11.5 are a fair and reasonable calculation of such damages

11.6 Duty/Right to Mitigate. Each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party’s performance or non-performance. With respect to Seller, Seller must use commercially reasonable efforts to maximize the price for Net Output received by Seller from third parties, including entering into an enabling agreement with, or being affiliated with, one or more power marketers of nationally recognized standing to market such Net Output not purchased or accepted by PacifiCorp (only



during a period PacifiCorp is in default), to the extent permitted by Requirements of Law and the Generation Interconnection Agreement. With respect to PacifiCorp, PacifiCorp must use commercially reasonable efforts to minimize the price paid to third parties for energy purchased to replace Net Output not delivered by Seller as required under this Agreement.

11.7 Security. If this Agreement is terminated because of Seller's default, PacifiCorp may, in addition to pursuing any and all other remedies available at law or in equity, proceed against any security held by PacifiCorp in whatever form to reduce the amounts that Seller owes PacifiCorp arising from such default.

11.8 Cumulative Remedies. Except in circumstances in which a remedy provided for in this Agreement is described as a sole or exclusive remedy, the rights and remedies provided to PacifiCorp in this Agreement are cumulative and not exclusive of any rights or remedies of PacifiCorp.

## **SECTION 12 INDEMNIFICATION AND LIABILITY**

### **12.1 Indemnities.**

12.1.1 Indemnity by Seller. To the extent permitted by Requirements of Law and subject to Section 12.1.5, Seller releases, indemnifies and holds harmless PacifiCorp, its divisions, Affiliates, and each of its and their respective directors, officers, employees, agents, and representatives (collectively, the "PacifiCorp Indemnitees") against and from any and all losses, fines, penalties, claims, demands, damages, liabilities, actions or suits of any nature whatsoever (including legal costs and attorneys' fees, both at trial and on appeal, whether or not suit is brought) (collectively, "Liabilities") actually or allegedly resulting from, arising out of, or in any way connected with, the performance by Seller of its obligations under this Agreement, or relating to the Facility or Premises, for or on account of injury, bodily or otherwise, to, or death of, or damage to, or destruction or economic loss of property of, any person or entity, except for Liabilities caused by the gross negligence or willful misconduct of any person or entity within the PacifiCorp Indemnitees. Seller is solely responsible for (and will defend and hold PacifiCorp harmless against) any damage that may occur as a direct result of Seller's breach of the Generation Interconnection Agreement.

12.1.2 Indemnity by PacifiCorp. To the extent permitted by Requirements of Law and subject to Section 12.1.5, PacifiCorp releases, indemnifies and holds harmless Seller, its Affiliates, and each of its and their respective directors, officers, employees, agents, and representatives (collectively, the "Seller Indemnitees") against and from any and all Liabilities actually or allegedly resulting from, arising out of, or in any way connected with, the performance by PacifiCorp of its obligations under this Agreement for or on account of injury, bodily or otherwise, to, or death of, or damage to, or destruction or economic loss of property of, any person or entity within the Seller Indemnitees, except for Liabilities caused by the gross negligence or willful misconduct of any person or entity within the Seller Indemnitees.

12.1.3 Additional Cross Indemnity. Without limiting Sections 12.1.1 and 12.1.2, Seller releases, indemnifies and holds harmless the PacifiCorp Indemnitees from and against all Liabilities related to Net Output prior to its delivery by Seller at the Point of Delivery, and PacifiCorp releases, indemnifies and holds harmless the Seller Indemnitees from and against all Liabilities related to Net Output once delivered to PacifiCorp at the Point of Delivery as provided in this Agreement, except in each case to the extent such Liabilities are attributable to the gross negligence, willful misconduct, or a breach of this Agreement by any member of the PacifiCorp Indemnitees or the Seller Indemnitees, respectively, seeking indemnification under this Agreement.

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

12.1.5 Consequential Damages. **NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, PUNITIVE, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES, WHETHER SUCH DAMAGES ARE ALLOWED OR PROVIDED BY CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, STATUTE OR OTHERWISE. THE PARTIES AGREE THAT ANY LIQUIDATED DAMAGES, DELAY DAMAGES, TERMINATION DAMAGES, PACIFICORP AND SELLER COST TO COVER DAMAGES, OR OTHER SPECIFIED MEASURE OF DAMAGES EXPRESSLY PROVIDED FOR IN THIS AGREEMENT DO NOT REPRESENT SPECIAL, PUNITIVE, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES AS CONTEMPLATED IN THIS PARAGRAPH.**

### **SECTION 13 INSURANCE**

13.1 Required Policies and Coverages. Without limiting any Liabilities or any other obligations of Seller, Seller must secure and continuously carry the insurance coverage specified on Exhibit I.

### **SECTION 14 FORCE MAJEURE**

14.1 Definition of Force Majeure. “Force Majeure” or “an event of Force Majeure” means an event that prevents a Party from performing an obligation under this Agreement and that (a) is not reasonably anticipated as of the Effective Date, (b) is not within the reasonable control of the Party affected by the event, (c) is not the result of such Party’s negligence or failure to act, and (d) could not be overcome by the affected Party’s use of due diligence in the circumstances. Force Majeure includes events of the following types (but only to the extent that such an event, in consideration of the circumstances, satisfies the requirements in the preceding sentence): environmental disasters; civil disturbance; sabotage; strikes; lock-outs; work stoppages; and action or restraint by court order or public or Governmental Authority (as long as the affected Party has not applied for or assisted in the application for, and has opposed to the extent reasonable, such court or government action). Notwithstanding the foregoing, none of the following constitute Force Majeure: (i) Seller’s ability to sell, or PacifiCorp’s ability to purchase energy or capacity at a more advantageous price than is provided under this Agreement; (ii) the cost or availability of fuel or motive force to operate the Facility; (iii) economic hardship, including lack of money or the increased cost of electricity, steel, labor, or transportation; (iv) any breakdown or malfunction of the Facility’s equipment (including any serial equipment defect) that is not caused by an independent event of Force Majeure; (v) the imposition upon a Party of costs or taxes; (vi) delay or failure of Seller to obtain or perform any Required Facility Document unless due to a Force Majeure event; (vii) any delay, alleged breach of contract, or failure by the Transmission Provider or Interconnection Provider unless due to a Force Majeure event as defined in any agreement with the Transmission Provider or Interconnection Provider; (viii) maintenance upgrade or repair of any facilities or right of way corridors constituting part of or involving the Interconnection Facilities, whether performed by or for Seller, or other third parties (except for repairs made necessary as a result of an event of Force Majeure); (ix) Seller’s failure to obtain, or perform under, the Generation Interconnection Agreement, or its other contracts and obligations to transmission owner, Transmission Provider or Interconnection Provider, unless due to a Force Majeure event; or (x) any event attributable to the use of Interconnection Facilities for deliveries of Net Output to any party other than PacifiCorp.

14.2 Suspension of Performance. Neither Party will be liable for any delay or failure in its performance under this Agreement, nor will any delay, failure, or other occurrence or event become an Event of Default, to the extent such delay, failure, occurrence or event is substantially caused by conditions or events of Force Majeure during the continuation of the event of Force Majeure, provided that: (a) the Party affected by the Force Majeure, within five (5) days after the occurrence of the event of Force Majeure, gives the other Party written notice describing the particulars of the event of Force Majeure and how the event has impacted the affected Party’s obligations under this Agreement; (b) the suspension of performance of the affected Party’s obligations is of no greater scope and of no longer duration than is required to remedy the effect of the Force Majeure; and (c) the affected Party uses diligent efforts to

remedy its inability to perform.

14.3 Force Majeure Does Not Affect Other Obligations. No obligations of either Party that arose before the event of Force Majeure causing the suspension of performance or that arise after the cessation of such event of Force Majeure is excused by such event of Force Majeure.

14.4 Strikes. Notwithstanding any other provision of this Agreement, neither Party will be required to settle any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to the Party's best interests.

14.5 Right to Terminate. If a Force Majeure event prevents a Party from substantially performing its obligations under this Agreement for a period exceeding 180 consecutive days, then the Party not affected by the Force Majeure event may terminate this Agreement by giving ten (10) days prior notice to the other Party. Upon such termination, neither Party will have any liability to the other with respect to the period following the effective date of such termination; provided, however, that this Agreement will remain in effect to the extent necessary to facilitate the settlement of all liabilities and obligations arising under this Agreement before the effective date of such termination.

## **SECTION 15 SEVERAL OBLIGATIONS**

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

## **SECTION 16 CHOICE OF LAW**

This Agreement will be interpreted and enforced in accordance with the laws of the State of Washington, applying any choice of law rules that may direct the application of the laws of another jurisdiction.

## **SECTION 17 PARTIAL INVALIDITY**

If any of the terms of this Agreement are finally held or determined to be invalid, illegal or void as being contrary to any applicable law or public policy, all other terms of this Agreement will remain in effect. The Parties agree to use best efforts to amend this Agreement to reform or replace any terms determined to be invalid, illegal or void, such that the amended terms (a) comply with and are enforceable under applicable law, (b) give effect to the intent of the Parties in entering into this Agreement, and (c) preserve the balance of the economics and equities contemplated by this Agreement in all material respects.

## **SECTION 18 NON-WAIVER**

No waiver of any provision of this Agreement will be effective unless the waiver is provided in writing that (a) expressly identifies the provision being waived, and (b) is executed by the Party waiving the provision. A Party's waiver of one or more failures by the other Party in the performance of any of the provisions of this Agreement will not be construed as a waiver of any other failure or failures, whether of a like kind or different nature.

## **SECTION 19 GOVERNMENTAL JURISDICTION AND AUTHORIZATIONS**

This Agreement is subject to the jurisdiction of those Governmental Authorities having jurisdiction over either Party or this Agreement.

## **SECTION 20 SUCCESSORS AND ASSIGNS**

20.1 Restriction on Assignments. Except as provided in this Section 20, neither Party may assign this Agreement or any of its rights or obligations without the prior written consent of the other Party; provided that if Seller's proposed assignee agrees in writing to be bound by the terms and conditions of this Agreement, possesses the same or a better level of experience developing and operating facilities like the Facility as that of Seller, and has the same or better creditworthiness scores as that of Seller, PacifiCorp's consent shall not unreasonably be withheld.

20.2 Permitted Assignments. Notwithstanding Section 20.1, either Party may, without the need for consent from the other Party (but with notice to the other Party, including the names of the assignees): (a) transfer, sell, pledge, encumber or assign this Agreement or the related accounts, revenues or proceeds in connection with project financing for the Facility; or (b) transfer or assign this Agreement to an Affiliate meeting the requirements of this Agreement, provided, however, that Seller will not transfer, sell, encumber or assign this Agreement or any interest in this Agreement to any Affiliate of PacifiCorp without the prior written consent of PacifiCorp. For any assignment under (b) above, the assignee must agree in writing to be bound by the terms and conditions of this Agreement and must possess the same or similar experience, and possess the same or better creditworthiness, as the assignor. PacifiCorp may assign this Agreement in whole or in part without the consent of Seller to any person or entity in the event that PacifiCorp ceases to be a load-serving entity, in which event PacifiCorp will be released from liability under this Agreement. The Party seeking to assign or transfer this Agreement is solely responsible for paying all costs of assignment.

## **SECTION 21 ENTIRE AGREEMENT**

This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding the subject matter of this Agreement. No modification of this Agreement is effective unless it is in writing and executed by both Parties.

## **SECTION 22 NOTICES**

22.1 Addresses and Delivery Methods. All notices, requests, statements or payments must be made to the addresses set out in Exhibit L. In addition, copies of a notice of termination of this Agreement under Section 11.3 must contain the information required by Section 11.3 and must be sent to the then-current President and General Counsel of PacifiCorp. Notices required to be in writing must be delivered by letter or other tangible documentary form. Notice by overnight mail or courier will be deemed to have been given on the date and time evidenced by the delivery receipt. Notice by hand delivery will be deemed to have been given when received or hand delivered. Notice by electronic transmission is effective as of transmission, but must be followed up by notice by registered mail or overnight carrier to be effective. Notice by certified or registered mail, return receipt requested, will be deemed to have been given upon receipt. The Parties may change any of the persons to whom notices are addressed, or their addresses, by providing written notice in accordance with this section.

## **SECTION 23 PUBLICITY**

23.1 News Releases and Publicity. Before Seller issues any news release or publicly distributed promotional material regarding this Agreement, Seller must first provide a copy thereof to PacifiCorp for its review. Any use of the name "Berkshire Hathaway," in any form, requires the prior written consent of PacifiCorp.

## **SECTION 24 DISAGREEMENTS**

24.1 Negotiations. Prior to proceeding with formal dispute resolution, the Parties must first attempt in good faith to resolve informally all disputes arising out of, related to or in connection with this Agreement.

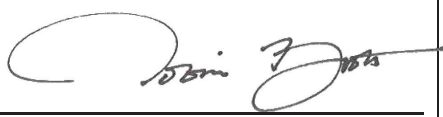

Any Party may give the other Party written notice of any dispute not resolved in the normal course of business. Executives of both Parties at levels one level above those employees who have previously been involved in the dispute must meet at a mutually acceptable time and place within ten (10) days after delivery of such notice, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute. If the matter has not been resolved within thirty (30) days after the referral of the dispute to such executives, or if no meeting of such executives has taken place within fifteen (15) days after such referral, either Party may initiate any legal remedies available to the Party. No statements of position or offers of settlement made in the course of the dispute process described in this section will be offered into evidence for any purpose in any litigation between the Parties, nor will any such statements or offers of settlement be used in any manner against either Party in any such litigation. Further, no such statements or offers of settlement will constitute an admission or waiver of rights by either Party in connection with any such litigation. At the request of either Party, any such statements and offers of settlement, and all copies thereof, will be promptly returned to the Party providing the same.

24.2 Mediation. If the dispute is not resolved under the procedures provided in Section 24.1, either Party may request that the matter be submitted to non-binding mediation. The costs of the mediation, including fees and expenses, will be borne equally by the Parties. All verbal and written communications between the Parties and issued or prepared in connection with the mediation will be deemed prepared and communicated in furtherance, and in the context, of dispute settlement, and will be exempt from discovery and production, and will not be admissible in evidence (whether as admission or otherwise) in any litigation or other proceedings for the resolution of the dispute.

24.3 Choice of Forum. Each Party irrevocably consents and agrees that any legal action or proceeding arising out of this Agreement or the actions of the Parties leading up to the Agreement will be brought exclusively in the state and federal courts in Portland, Oregon. By execution and delivery of this Agreement, each Party (a) accepts the exclusive jurisdiction of such court and waives any objection that it may now or hereafter have to the exercise of personal jurisdiction by such court over each Party for the purpose of any proceeding related to this Agreement; (b) irrevocably agrees to be bound by any final judgment (after any and all appeals) of any such court arising out of such documents or actions; (c) irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceedings arising out of such documents brought in such court (including any claim that any such suit, action or proceeding has been brought in an inconvenient forum) in connection herewith; (d) agrees that service of process in any such action may be effected by mailing a copy thereof by registered or certified mail, postage prepaid, to such Party at its address stated in this Agreement; and (e) agrees that nothing in this Agreement affects the right to effect service of process in any other manner permitted by law.

24.4 WAIVER OF JURY TRIAL. EACH PARTY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON THIS AGREEMENT, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT WITH ANY PROCEEDING IN WHICH A JURY TRIAL HAS NOT OR CANNOT BE WAIVED. THIS PARAGRAPH WILL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

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

<p>SUNNYSIDE SOLAR, LLC</p> <p>By: OneEnergy Development, LLC, its manager</p> <p>By: </p> <p>Name: _____</p> <p>Title: Tobin Booth CEO</p> <p>Date: November 4, 2021</p>	<p>PACIFICORP</p> <p><b>Bruce Griswold</b></p> <p>By:  Digitally signed by Bruce Griswold Date: 2021.11.08 17:08:25 -08'00'</p> <p>Name: Bruce Griswold</p> <p>Title: <u>Director, Short-term Origination</u></p> <p>Date: November 8, 2021</p>
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## EXHIBIT A

### EXPECTED MONTHLY NET OUTPUT

Month	On-Peak Energy (MWh)	Off-Peak Energy (MWh)	Total Energy (MWh)
January	0.2	297.2	297.4
February	6.8	552.1	558.9
March	61.2	859.2	920.4
April	151.9	1,037.9	1,189.8
May	309.6	1,123.3	1,432.9
June	602.7	920.8	1,523.5
July	701.7	991.4	1,693.1
August	583.4	870.7	1,454.1
September	422.6	693.8	1,116.4
October	15.8	711.2	727.0
November	2.9	339.0	341.9
December	0.1	255.7	255.8
<i>First Contract Year Total</i>	929.2	4,794.9	11,511.2

*On-peak Winter hours: 6:00a - 8:00am and 5:00p - 11:00pm Pacific Prevailing Time (PPT), Oct. through May*

*Off-peak Winter hours: All other hours, Oct. through May*

*On-peak Summer hours: 2:00pm - 10:00pm PPT, June through September*

*Off-peak Summer hours: All other hours, June through September*

The energy values above will be reduced 0.5% each Contract Year following the Commercial Operation Date.

### MAXIMUM DELIVERY RATE

13,813 MWh per year

**EXHIBIT B**  
**DESCRIPTION OF SELLER'S FACILITY**

The Facility consists of a 4.99 MWac solar photovoltaic generating system including PV panels, inverters, and a single-axis tracking system.

Type (synchronous or inductive): Inverter

Facility Nameplate Capacity Rating (as stated in Seller's FERC Form 556): 4.99 MWac

Inverter Model: SunGrow SG 125HV

Number of Phases: 3

Power factor requirements: Facility will operate within a power factor range of 0.8 leading to 0.8 lagging.

PF requirements will meet PacifiCorp standard interconnection procedures.

Rated Power Factor (PF) or reactive load (kVAR): 0.8 leading / 0.8 lagging

Rated Output (kW): 4,999 kW

Rated Output (kVA): 4,999 KVA

Rated Voltage (line to line): 12.47 kV

Rated Current (A): 231 A

Maximum kW Output: 4,999 kW

Maximum kVA Output: 4,999 kVA

Minimum kW Output: 0 kW

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

Transformer: -0.8%, Tracker Motor: -0.02%, Data Acquisition and Aux Loads: -0.05%

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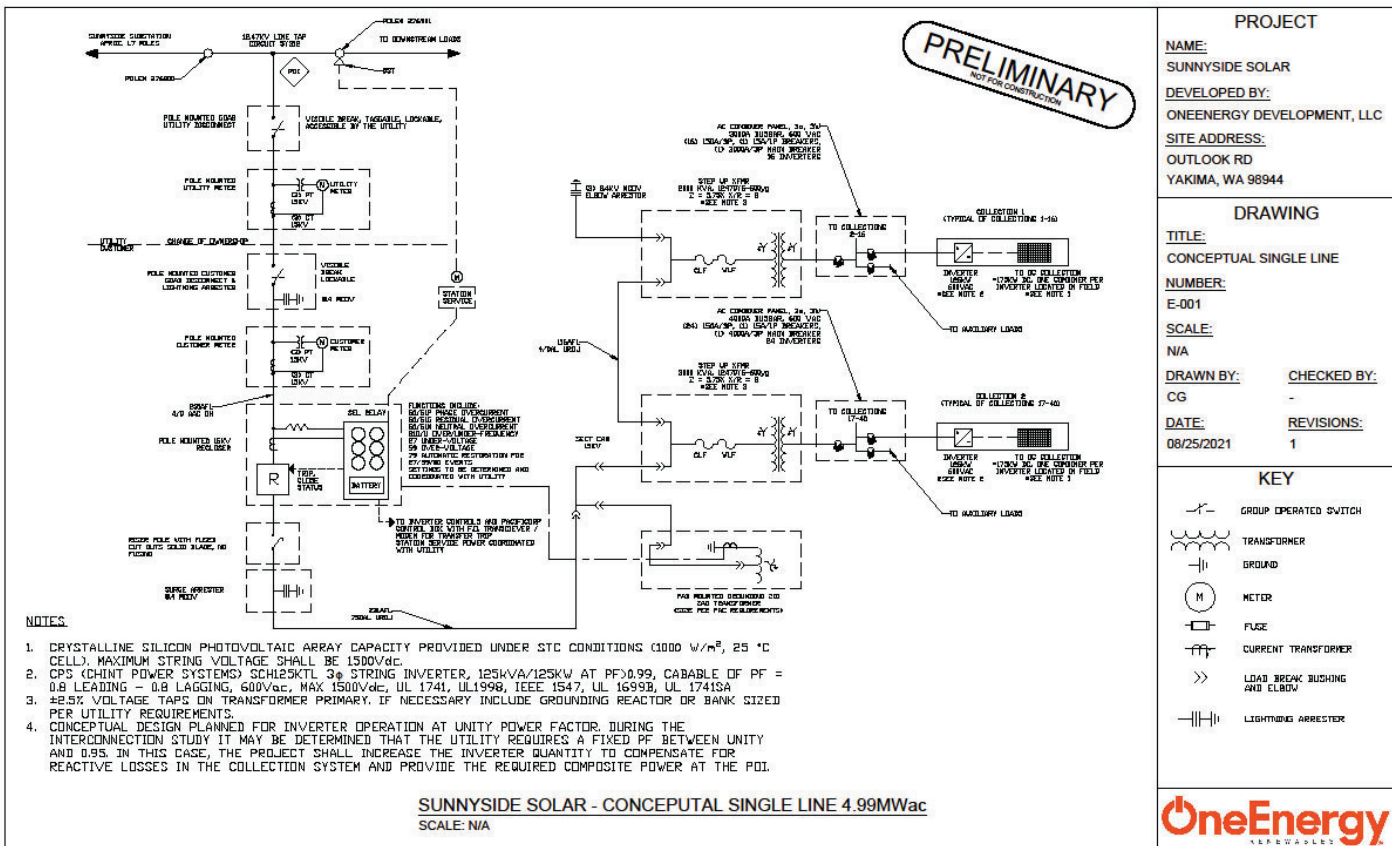
Location of the Facility: 46.329, -120.053 in Yakima County, Washington near the city of Sunnyside.



## EXHIBIT C

### SELLER'S INTERCONNECTION FACILITIES

The point of delivery and point of metering are at the high side of the step-up transformer at the point of interconnection with PacifiCorp's 12.47 KV circuit 5Y312 out of Sunnyside substation. The location of change of ownership and the utility meter are identified in the single line drawing.



**EXHIBIT D**  
**REQUIRED FACILITY DOCUMENTS**

QF Certification: QF20-418-002

Interconnection Agreement: Due November 15, 2021

Ground Lease Agreement: Solar energy option agreement between City of Sunnyside and OneEnergy Development, LLC dated August 13, 2018

Permits:

Zoning Permit

Building Permit

Stormwater Permit

**EXHIBIT E**  
**LEASES**

## **SOLAR ENERGY OPTION AGREEMENT**

THIS SOLAR ENERGY OPTION AGREEMENT (the "Option Agreement"), is effective as of the Effective Date (hereinafter defined) by and between Landowner (hereinafter defined) and Company (hereinafter defined). Landowner and Company may hereafter be referred to as, together, the "Parties" and each, a "Party".

### **RECITALS**

- A. Landowner is the owner of the Property (hereinafter defined).
- B. Landowner desires to grant and convey to Company an exclusive option (the "Option") to utilize the Solar Rights (hereinafter defined) on a portion of the Property described as the Leased Premises and to be determined in accordance with the further provisions hereof.

### **AGREEMENT**

IN CONSIDERATION of the foregoing and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereto agree as follows:

1. **Definitions.** The following terms have the definitions ascribed to such terms in the table below:

<b>Term</b>	<b>Definition</b>
<b>"<u>Effective Date</u>"</b>	The date this Option Agreement is fully executed, as evidenced by the latest date below the signature lines of each Party
<b>"<u>Landowner</u>" (and address)</b>	City of Sunnyside  Whose address for notice purposes hereunder is:  City of Sunnyside 818 E. Edison Ave Sunnyside, WA 98944
<b>"<u>Company</u>" (and address)</b>	OneEnergy Development, LLC  Whose address for notice purposes hereunder is:  Contracts Administration 2003 Western Avenue, Suite 225 Seattle, WA 98121 facsimile: 206-922-7079 email: <a href="mailto:accounting@oneenergyrenewables.com">accounting@oneenergyrenewables.com</a>

<u>“Option Price”</u>	Company shall pay the sum of (i) [REDACTED] for the first year of the Option Term, being due no later than thirty (30) days following the Effective Date, (ii) [REDACTED] for the second year of the Option Term, (iii) [REDACTED] for the third year of the Option Term, (iv) [REDACTED] for the fourth year of the Option Term, and (v) \$[REDACTED] for the fifth year of the Option Term. Payments shall be paid in annual installments within thirty (30) days of each anniversary of the Effective Date.
<u>“Option Term”</u>	The period commencing on the Effective Date and terminating on the <b>fifth (5<sup>th</sup>)</b> anniversary of the Effective Date.
<u>“Property”</u>	That certain lot or tract of land located in Yakima County, Washington described in <b><u>Exhibit A</u></b> attached hereto and made a part hereof for all purposes.
<u>“Leased Premises”</u>	That portion of the Property to be identified by Company during the Option Term on which Company intends to construct solar energy conversion systems or otherwise make subject to the Lease, a preliminary sketch of which is attached as <b><u>Exhibit A-1</u></b> .
<u>“Solar Rights”</u>	The right to, during the term of a Lease entered into pursuant to this Agreement, capture the unobstructed flow of all radiant energy emitted from the sun upon, over and across the Leased Premises or any portion of the Leased Premises for electric power, heat and/or steam generation purposes, including the right to construct, operate and maintain solar energy conversion systems, including, without exclusion, solar photovoltaic panels (including concentrating solar photovoltaic equipment), solar resource measurement equipment, support structures, foundations, pads, footings, fencing, electrical inverters and transformers, meters, switches, breakers, fixtures, equipment storage, electric wiring, distribution and transmission lines, access roads, interconnection facilities and related structures and facilities and equipment, together with certain easement and/or leasehold rights for access, utilities and other appurtenant rights to the foregoing.

2. **Grant of Option.** Landowner grants Company an exclusive, irrevocable Option to utilize the Solar Rights, by grants of leasehold and easement interests from Landowner, which Option shall be in effect during the Option Term for so long as the Option Price is paid to Landowner by Company as set forth hereinabove.

3. **Termination of Option.** Company may, at its sole option, terminate this Option Agreement at any time. Any payments made to Landowner before this Option Agreement is terminated shall be Landowner's property and need not be refunded in whole or in part. Landowner may terminate this Option Agreement

if Company fails to make any payment required by this Option Agreement and Landowner has provided written notice of such failure to Company and provided thirty (30) days to cure such failure.

4. **Exercise of Option.** Company may exercise the Option by giving written notice of such exercise to Landowner at any time during the Option Term and delivering to Landowner a Lease (herein so called) in a form prepared by Company containing in part the terms set forth on **Exhibit B** attached hereto and made a part hereof. To the extent Landowner has any comments or objections to the Lease, Landowner shall initially respond in an effort to provide such comments or objections to Company no later than thirty (30) days following receipt of the Lease, and the Parties shall negotiate in good faith to resolve such comments or objections; provided, however, that Landowner shall have no right to object to the Lease to the extent the Lease conforms to the terms of this Option Agreement. Landowner shall execute and deliver to Company the Lease promptly upon resolution of the form of same.

5. **Authority.** Landowner represents and warrants to Company that Landowner is the sole owner of the Property and has the unrestricted right and authority to sign this Option Agreement; to grant Company the rights granted in this Option Agreement; and, to enter into the Lease if Company exercises the Option. When signed by the parties, this Option Agreement constitutes a valid and binding agreement enforceable against the Parties in accordance with its terms.

6. **Company's Due Diligence.** During the Option Term, Company or its representatives at Company's sole cost shall have the right of access to the Property for the purpose of installing equipment, making surveys, physical inspections and investigations, including but not limited to solar and environmental studies considered necessary by Company in connection with its proposed use of the Property under the Lease. Company will provide Landowner with reasonable prior notification of any entry on the Property. Within thirty (30) days of the termination of this Option Agreement, Company shall repair or reimburse Landowner for the cost of, any damages to all personal and/or real property regardless of property's owner caused by its entry upon the Property and shall remove all equipment and personal property from the Property, unless the termination of this Agreement is due to an exercise of the Option by Company.

7. **Successors and Assigns.** This Option Agreement shall run with the land. Either party may without the consent of the other assign its interest in this Option Agreement. Any assignment shall be subject to the terms and requirements of this Option Agreement. This Option Agreement shall inure to the benefit of and be binding upon the parties, their heirs, successors and assigns.

8. **Notices.** All notices or other communications required or permitted by this Option Agreement, shall be in writing and shall be deemed given or made when personally delivered or, in lieu of such personal service, five (5) days after deposit in the United States mail, first class, postage prepaid, certified, or one (1) business day after dispatch by Federal Express or other overnight delivery service of national scope, addressed as set forth in the table set forth hereinabove.

9. **Indemnification.** The Company agrees to defend, indemnify and hold the Landowner harmless, including its employees, agents, officers, and contractors against any and all claims by or on behalf of any person or entity or other governmental entity arising from activities hereunder or by virtue of this Agreement or any part hereof, or by the Company entering into this Agreement. The Company will further indemnify, defend and save the Landowner, including its employees, agents, officers, and contractors harmless against and from any and all claims arising from this Agreement, or otherwise from any cause in any way connected with this Agreement from any breach or default on the part of the Company to perform pursuant to the terms of this Agreement, or arising out of any act of negligence or omission of the Company, except for those damages solely as a result of the negligent acts or omissions of the Landowner, its employees, agents, officers, or contractors



10. **Further Assurances.** Each party agrees to cooperate with the other party and to execute any additional documents reasonably necessary or proper to carry out the provisions and spirit of this Option Agreement. Without limitation of the foregoing, Landowner agrees to execute and deliver to Company a short form or memorandum of this Option Agreement in a recordable form, which document may be recorded by Company in the real property records of the county in which the Property is located.

11. **Dispute Resolution.** In the event of a dispute between the parties regarding the interpretation, breach, or enforcement of this Agreement, the parties shall first meet in a good faith effort to resolve the dispute by themselves or with the assistance of a mediator. The remaining dispute shall be resolved by arbitration pursuant to RCW 7.04A, as amended, with all parties waiving the right of a jury trial upon de novo review. Arbitration shall be conducted in Yakima County, Washington, with the substantially prevailing party being awarded its reasonable attorney fees and costs against each other.

**SIGNATURES TO FOLLOW ON NEXT PAGE**

IN WITNESS WHEREOF, the Parties have executed this Option Agreement as of the Effective Date.

**Landowner:**

**City of Sunnyside**

Signed: 

Name: Don Day

Title: City Manager

Date: August 13, 2018

CITY CONTRACT NO: A-2018-79  
RESOLUTION NO: X  
COUNCIL MTG: 08-13-18

**Company:**

**OneEnergy Development, LLC**  
a Washington limited liability company

Signed: 

Name: Travis J. Bryan

Title: COO

Date: 8/8/18

STATE OF WASHINGTON )  
: ss.  
County of Yakima )

On this day personally appeared before me DON DAY, City Manager of the City of Sunnyside, Washington, to be known to be the individual described in and who executed the within and foregoing instrument and acknowledged that she signed the same as her free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 13<sup>th</sup> day of August, 2018.

[Signature]  
NOTARY PUBLIC in and for the State of Washington  
Residing at: Grandview, WA  
My Commission Expires: April 11, 2022



STATE OF WASHINGTON )  
King : ss.  
County of ~~Yakima~~ )

On this day personally appeared before me Travis J. Bryson COO for OneEnergy Development, LLC to be known to be the individual described in and who executed the within and foregoing instrument and acknowledged that he signed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.

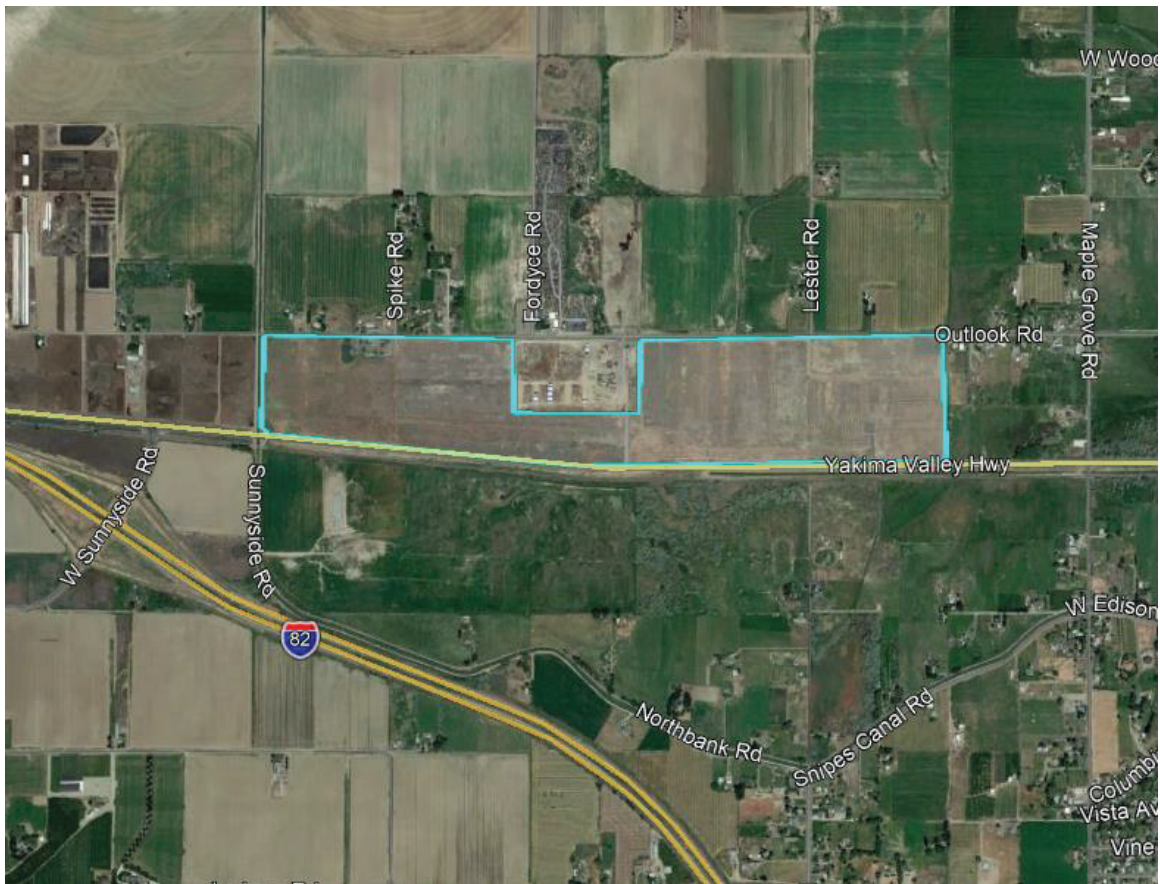
GIVEN under my hand and official seal this 8<sup>th</sup> day of August, 2018.

[Signature]  
NOTARY PUBLIC in and for the State of Washington  
Residing at: 919 NW 57<sup>th</sup> St. #4 Seattle, WA 98107  
My Commission Expires: 3/10/2021



## EXHIBIT A

### MAP AND DESCRIPTION OF THE PROPERTY



Total Parcel Acreage: 151

Parcels Included:

2837300300001

Yakima County, WA

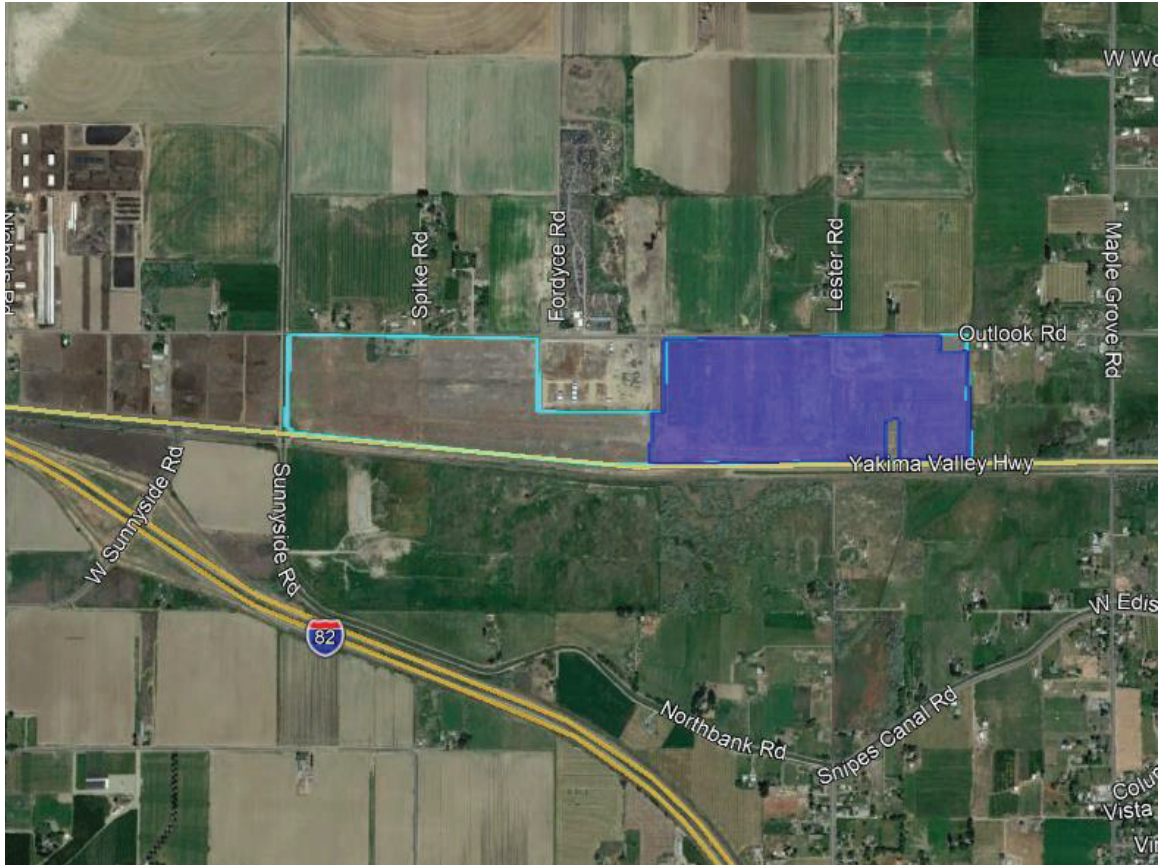
 Parcel Boundaries



## EXHIBIT A-1

### LEASED PREMISES

(TO BE UPDATED PRIOR TO OPERATIONS TERM)





Total Parcel Acreage: 151

Parcels Included:

2837300300001

Total AOI Acreage: up to 80

Yakima County, WA

-  Parcel Boundaries
-  Area of Interest

## EXHIBIT B

### SOLAR LEASE TERM SHEET

The Lease shall grant to Company the Solar Rights during the Lease Term and shall contain provisions covering substantially the following terms and provisions:

- A. TERM:** The Lease will consist of (i) a Development Term that begins on signing of the Lease by all parties and ends upon the earlier of (a) expiration of the original Option Period under the Option Agreement or (b) the start of commercial operation (the “Commercial Operation Date”) and (ii) unless the Lease is earlier terminated by Company, an operational term that commences on the expiration of the Development Term and ends on the twenty-sixth (26<sup>th</sup>) anniversary thereof. Company shall have the right to extend the operational term an additional ten (10) years.
- B. RENTAL:** Rental during the initial term of the Lease will begin at [REDACTED] per acre for the first year of the Leased Premises under the Lease, escalating [REDACTED] annually throughout the initial term; provided, however, that the foregoing rental shall not commence until the earlier of (i) the third anniversary of the Effective Date (and the rent for the period between Company’s exercise of the Option and the third anniversary of the Effective Date shall be the same that the “Option Price” for such period would have been had the Option not already been exercised) or (ii) the date upon which Company occupies the Leased Premises and commences physical construction activities.
- C. EXTENSION PERIOD RENT:** In the event Company exercises its right to extend this Lease as described in the “Lease Term” then Company shall pay to Landowner for the first year of the Extension Period a rental payment equal to [REDACTED] greater than the Operations Rent in effect on the twenty-sixth (26<sup>th</sup>) year after the commencement of the Operations Period (the “Extension Rent”). Extension Rent shall then continue to increase by [REDACTED] per annum each year of the Extension Period thereafter.
- D. TAXES:** Landowner shall pay, when due, all real property taxes and assessments levied against Landowner’s Property and all personal property taxes and assessments levied against any property and improvements owned by Landowner and located on Landowner’s Property. Company shall pay all personal property taxes and assessments levied against the Solar Facilities when due. If Landowner’s Property experiences any increase in the amount of real property taxes assessed as a result of the installation of the Solar Facilities on Landowner’s Property, including any reclassification of Landowner’s Property, Company shall be responsible for paying such increase. Company’s responsibility shall include making prompt payment to the City in the amount of all leasehold excise taxes assessed to the City by the State of Washington as a result of Lease, within thirty (30) days of notice given to Company that such tax is due.
- E. REMOVAL AND RESTORATION:** Within one hundred and eighty (180) days after end of the Lease, Company will remove all improvements to a depth of thirty-six (36) inches, with the exception of roads. Prior to commencing any physical construction activities, Company shall provide to Landowner commercially reasonable assurance of its ability to pay for costs of removal. If any improvements exist below thirty-six (36) inches, company shall make all reasonable attempts to remove improvements below thirty-six (36) inches depth. Upon termination of the Lease for any



reason, Company shall promptly thereafter execute and record a release of all of Company's right, title and interest in the Property.

**F. INDEMNITY AND INSURANCE:** Prior to the commencement of construction, Company will indemnify Landowner for injuries and claims for direct damage to the extent caused by Company's exercise of its rights under the Lease backed by general liability insurance with a combined single limit of \$1,000,000. At the commencement of construction the amount will increase to \$5,000,000. Certificates of insurance policies showing shall be delivered to Landowner annually upon request showing such coverage.

**G. COOPERATION:** Landowner shall reasonably cooperate in obtaining permits, signing documents requested by Company and its lenders, obtaining signatures of Landowner's tenants and lenders on non-disturbance agreements, and in all other matters relating to Company's proposed activities on the Property, as is allowed by law.

**H. ASSIGNMENT:** Company has the right to assign, sublease, transfer or convey all or part of its interests in the Lease with Landowner's written consent, which shall not be unreasonably withheld; provided, however, that Company will remain liable for all obligations under the Purchase Agreement unless the assignee assumes such obligations in writing. Company shall provide written notice to Landowner of any such assignment, sublease, transfer, or conveyance after obtaining Landowner's written consent.

**I. OTHER TERMS AND PROVISIONS:** The Lease shall contain other customary ground lease terms and provisions only to be included upon agreement of both Parties, including but not limited to provisions relating to non-interference, non-disturbance, quiet enjoyment, condemnation, waiver of any Landlord liens on Company's personal property except in the case of Company's default, lender protection provisions (including but not limited to the right of any Company lender to receive notices of default and additional time to cure defaults and such other customary lender protection provisions), recording of memoranda, and delivery of estoppels.

## EXHIBIT F

### PERFORMANCE GUARANTY – SOLAR

Output Guarantee. Seller is obligated to deliver a quantity of Net Output during each Rolling Period which is equal to the Output Guarantee. For purposes of this Agreement, “Output Guarantee” for any Rolling Period means the sum of (a) 90% of the Expected Net Output of the Facility for such Rolling Period, less (b) any quantities of Output that were not delivered to the Point of Delivery (or accepted by PacifiCorp) in such Rolling Period during periods constituting Seller Uncontrollable Minutes. The Output Guaranty shall not be calculated until the completion of the first Rolling Period after Commercial Operation. If the quantity of Net Output delivered by the Facility during any Rolling Period is less than the Output Guarantee for such Rolling Period, the resulting shortfall will be expressed in MWh as the “Output Shortfall,” in accordance with the following formula:

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

Liquidated Damages for Output Shortfall. If the product of the Output Shortfall calculation provided above is a positive number, Seller must pay PacifiCorp liquidated damages equal to the product of (a) the Output Shortfall for that Rolling Period, multiplied by (b) PacifiCorp’s Cost to Cover for such Rolling Period. If the product of the Output Shortfall calculation provided above is a negative number, Seller will not be obligated to pay PacifiCorp liquidated damages for such Rolling Period. Each Party agrees and acknowledges that (i) the damages that PacifiCorp would incur due to the Facility’s failure to achieve the Output Guarantee would be difficult or impossible to predict with certainty and (ii) the liquidated damages contemplated by this provision are a fair and reasonable calculation of such damages.

Invoicing for Output Shortfall. On the thirtieth (30<sup>th</sup>) day following the end of each Rolling Period, PacifiCorp will deliver to Seller an invoice showing PacifiCorp’s computation of Net Output and Output Shortfall, if any, for the prior Rolling Period and any amount due to PacifiCorp for liquidated damages calculated pursuant to this Exhibit F. In preparing such invoices, PacifiCorp will utilize the meter data provided to PacifiCorp for the applicable Rolling Period, provided that if the meter data for any portion of such Rolling Period is then incomplete or otherwise not available, PacifiCorp may also rely on historical averages and other information as may be available to PacifiCorp at the time of invoice preparation. To the extent required, PacifiCorp will true up any such invoice as promptly as practicable following its receipt of actual results for the relevant Rolling Period. Within thirty (30) days after receiving the invoice, Seller must either (a) pay to PacifiCorp, by wire transfer of immediately available funds to an account specified in writing by PacifiCorp or by any other means agreed to by the Parties, the amount due in such invoice, or (b) provide a written notice to PacifiCorp disputing all or any portion of the invoice. All disputes regarding such invoices are subject to Section 10.4. Objections not made by Seller within the thirty (30) day period will be deemed waived.

## EXHIBIT G

### FORM OF PARENT GUARANTY

THIS GUARANTY (this "Guaranty"), dated as of [\_\_\_\_], 20[\_\_\_\_], is issued and delivered by [\_\_\_\_], a [\_\_\_\_] ("Guarantor") for the benefit of PacifiCorp, an Oregon corporation ("Beneficiary"), with reference to the following:

WHEREAS, Beneficiary and [\_\_\_\_], a [\_\_\_\_] ("Obligor") entered into that certain Power Purchase Agreement, dated as of [\_\_\_\_], 20[\_\_\_\_] (the "Agreement"); and Guarantor delivers this Guaranty to Beneficiary as an inducement to Beneficiary to enter into the Agreement.

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

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

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

3. Beneficiary may at any time, whether before or after termination of this Guaranty, and from time to time without notice to or consent of Guarantor and without impairing or releasing the obligations of Guarantor hereunder: (a) apply any sums received to any indebtedness or other obligations for which Obligor is liable, whether or not such indebtedness is an Obligation; (b) modify, compromise, release, subordinate, substitute, exercise, alter, enforce or fail or refuse to exercise or enforce any claims, rights or remedies of any kind which Beneficiary may have, at any time against Obligor or Guarantor, endorser, or other party liable for the Guaranteed Obligations or any part or term thereof, or with respect to collateral or security of any kind Beneficiary may have, at any time, whether under the Guaranteed Obligations, or any other agreement, or this Guaranty, or otherwise; (c) release, substitute, or surrender and to enforce, collect or liquidate or to fail or refuse to enforce, collect or liquidate, any collateral or security of any kind Beneficiary may have, at any time, whether under this Guaranty or otherwise; (d) take and hold security for the payment and performance of the obligations guaranteed hereby, and exchange, enforce, waive, and release or apply such security and direct the order or manner of sale thereof as Beneficiary in its discretion may determine; (e) release or substitute any other guarantor of Obligor's payment or performance; and (f) assign this Guaranty in whole or in part or Beneficiary's rights hereunder to anyone at any time. Guarantor hereby consents to each and all of the foregoing acts, events and/or occurrences.

4. Guarantor expressly waives (a) protest, (b) notice of acceptance of this Guaranty by Beneficiary, (c) demand for payment of any of the Guaranteed Obligations; (d) any right to assert

against Beneficiary any defense (legal or equitable), counter-claim, set-off, cross-claim or other claim that Guarantor may now or at any time hereafter have (i) against Obligor or (ii) acquired from any other party, not affiliated with Guarantor, to which Beneficiary may be liable; and (e) any defense arising by reason of any claim or defense based upon an election of remedies by Beneficiary which in any manner impairs, affects, reduces, releases, destroys or extinguishes Guarantor's subrogation rights, rights to proceed against Obligor for reimbursement, or any other rights of Guarantor to proceed against Obligor or against any other person, property or security.

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

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

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

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

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

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

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

OR TERMINATION OF THIS GUARANTY.

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

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

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

If to Guarantor, at:

[ ]

[ ]

With a copy to:

[ ]

[ ]

If to Beneficiary, at:

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

With a copies to:

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

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

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

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

By: \_\_\_\_\_  
Name:  
Title:



**EXHIBIT H**  
**SELLER AUTHORIZATION TO RELEASE**  
**GENERATION DATA TO PACIFICORP**

September 29, 2021

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

RE: Queue Number: TCS-14, 15

To Whom it May Concern:

OneEnergy Development, LLC ("OneEnergy") and its affiliate Sunnyside Solar, LLC ("Seller") hereby voluntarily authorize PacifiCorp's Transmission business unit to share OneEnergy and Seller's interconnection information with marketing function employees of PacifiCorp, including but not limited to those in Energy Supply Management. OneEnergy and Seller acknowledge that PacifiCorp did not provide it any preferences, either operational or rate-related, in exchange for this voluntary consent.

By: OneEnergy Development, LLC  
(manager of Sunnyside Solar, LLC)

A handwritten signature in blue ink, appearing to read 'William Eddie', is written over a horizontal line.

Name: William Eddie  
Title: VP, Origination

**EXHIBIT I**  
**REQUIRED INSURANCE**

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

1.1.1 Workers' Compensation.

1.1.2 Employers' Liability.

1.1.3 Commercial General Liability.

1.1.4 Business Automobile Liability.

1.1.5 Umbrella/excess Liability.

1.1.6 Property Insurance.

1.2 Additional Provisions or Endorsements.

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

(a) naming PacifiCorp, parent, divisions, officers, directors and employees as additional insureds;

(b) include provisions that such insurance is primary insurance with respect to the interests of PacifiCorp and that any other insurance maintained by PacifiCorp is excess and not contributory insurance with the insurance required under this schedule; and

(c) cross liability coverage or severability of interest.

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

1.3 Certificates of Insurance. Seller must provide PacifiCorp with certificates of insurance within ten (10) days after the date by which such policies are required to be obtained, in ACORD or similar industry form. The certificates must indicate that the insurer will provide thirty (30) days prior written notice of cancellation. If any coverage is written on a "claims-made" basis, the certification accompanying the policy must conspicuously state that the policy is "claims made."

1.4 Term of Commercial General Liability Coverage. Commercial general liability coverage must be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement and for such other length of time necessary to cover liabilities arising out of the activities under this Agreement.

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

**EXHIBIT J**  
**NERC EVENT TYPES**

Event Type	Description of Outages
U1	<u>Unplanned (Forced) Outage—Immediate</u> – An outage that requires immediate removal of a unit from service, another outage state or a Reserve Shutdown state. This type of outage results from immediate mechanical/electrical/hydraulic control systems trips and operator-initiated trips in response to unit alarms.
U2	<u>Unplanned (Forced) Outage—Delayed</u> – An outage that does not require immediate removal of a unit from the in-service state but requires removal within six (6) hours. This type of outage can only occur while the unit is in service.
U3	<u>Unplanned (Forced) Outage—Postponed</u> – An outage that can be postponed beyond six hours but requires that a unit be removed from the in-service state before the end of the next weekend. This type of outage can only occur while the unit is in service.
SF	<u>Startup Failure</u> – An outage that results from the inability to synchronize a unit within a specified startup time period following an outage or Reserve Shutdown. A startup period begins with the command to start and ends when the unit is synchronized. An SF begins when the problem preventing the unit from synchronizing occurs. The SF ends when the unit is synchronized or another SF occurs.
MO	<u>Maintenance Outage</u> – An outage that can be deferred beyond the end of the next weekend, but requires that the unit be removed from service before the next planned outage. (Characteristically, a MO can occur any time during the year, has a flexible start date, may or may not have a predetermined duration and is usually much shorter than a PO.)
ME	<u>Maintenance Outage Extension</u> – An extension of a maintenance outage (MO) beyond its estimated completion date. This is typically used where the original scope of work requires more time to complete than originally scheduled. Do not use this where unexpected problems or delays render the unit out of service beyond the estimated end date of the MO.
PO	<u>Planned Outage</u> – An outage that is scheduled well in advance and is of a predetermined duration, lasts for several weeks and occurs only once or twice a year.
PE	<u>Planned Outage Extension</u> – An extension of a planned outage (PO) beyond its estimated completion date. This is typically used where the original scope of work requires more time to complete than originally scheduled. Do not use this where unexpected problems or delays render the unit out of service beyond the estimated end date of the PO.

**EXHIBIT K**  
**SCHEDULE QF AND PRICING SUMMARY TABLE**

**PRICING SUMMARY TABLE**

	<b>TRACKING SOLAR</b>			
	Combined Energy and Capacity Prices			
	Winter		Summer	
Year	On-Peak	Off-Peak	On-Peak	Off-Peak
	(\$/MWh)			
2023	\$31.46	\$18.27	\$53.59	\$34.81
2024	\$28.26	\$17.19	\$60.79	\$39.10
2025	\$30.37	\$18.55	\$66.73	\$43.16
2026	\$32.60	\$19.93	\$70.49	\$45.12
2027	\$32.78	\$20.38	\$70.75	\$45.89
2028	\$34.34	\$21.31	\$74.67	\$48.56
2029	\$35.97	\$22.21	\$77.99	\$50.69
2030	\$35.66	\$22.66	\$82.17	\$52.89
2031	\$37.13	\$23.62	\$86.22	\$55.34
2032	\$39.16	\$24.96	\$88.64	\$57.46
2033	\$40.95	\$26.34	\$97.31	\$63.35
2034	\$42.65	\$27.21	\$104.59	\$67.44
2035	\$44.89	\$28.15	\$111.67	\$72.32
2036	\$44.24	\$28.51	\$114.77	\$72.64

*Capacity costs based on a renewable resource beginning in 2028.*

**On and Off- Peak Hours**

*Winter On-Peak Hours: 6:00a - 8:00a and 5:00p - 11:00p Pacific Prevailing Time (PPT), Oct. through May*

*Winter Off-Peak Hours: All other hours, Oct. through May*

*Summer On-Peak Hours: 2:00p - 10:00p PPT, June through September*

*Summer Off-Peak Hours: All other hours, June through September*

**Schedule QF**  
**AVOIDED COST PURCHASES AND PROCEDURES FOR**  
**QUALIFYING FACILITIES**

---

AVAILABILITY:

This schedule applies to any person or entity who owns a Qualifying Facility (QF) and proposes to make sales of electricity from a QF in the State of Washington to the Company under Chapter 480-106 of the Washington Administrative Code (WAC). Such person or entity will be referred to as "Seller" in this schedule.

APPLICABILITY:

This schedule is applicable to QFs and QF Sellers as differentiated below.

Standard QFs: QFs with a nameplate capacity of 5 MWs or less (Standard QFs) are entitled to standard avoided cost rates, as provided in Part II below, and power purchase agreement (PPA) terms and conditions as provided in Chapter 480-106 of the WAC and this schedule.

Non-Standard QFs: QFs with a nameplate capacity greater than 5 MWs (Non-Standard QFs) are subject to the non-standard avoided cost rate methodology as most recently filed with the Commission, and Non-Standard QF Sellers will negotiate a PPA with the Company. A non-binding PPA term sheet is posted on the Company's website at: [www.pacificpower.net/rates](http://www.pacificpower.net/rates).

DEFINITIONS:

Capitalized terms used and not otherwise defined in this schedule will have the same meaning as provided in WAC 480-106-007.

Baseload QF: an Eligible Renewable Resource that is not a Solar QF or a Wind QF.

Eligible Renewable Resource: a QF that meets the requirements of "eligible renewable resource" set forth in the Revised Code of Washington: RCW 19.285.030.

Solar QF: a QF that generates electricity through the conversion of sunlight, either directly using photovoltaics or indirectly through the focus or collection of sunlight to heat a fluid or other medium.

Wind QF: a QF that generates electricity using wind as its motive force.

I. QUALIFYING FACILITY CONTRACTING PROCEDURES:

A. COMMUNICATIONS:

Unless otherwise directed by the Company, all communications to the Company regarding QF indicative avoided cost pricing and PPAs should be directed in writing as follows:

PacifiCorp  
QF Contracts  
825 NE Multnomah St, Suite 600  
Portland, Oregon 97232  
Email: [QFrequests@pacificorp.com](mailto:QFrequests@pacificorp.com)

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**Title:** Vice President, Regulation

**Schedule QF**  
**AVOIDED COST PURCHASES AND PROCEDURES FOR**  
**QUALIFYING FACILITIES****I. QUALIFYING FACILITY CONTRACTING PROCEDURES: (continued)****A. COMMUNICATIONS: (continued)**

The Company will respond to all such communications in a timely manner. If the Company is unable to respond on the basis of incomplete or missing information from the Seller, the Company will indicate what additional information is required. The Company will respond in a timely manner on completeness of the request following receipt of all required information.

**B. CONTRACTING PROCEDURES:****CONTRACTING PROCEDURES FOR STANDARD QFS**

1. A standard form PPA for Washington may be obtained from the Company's website at [www.pacificpower.net/rates](http://www.pacificpower.net/rates). This form of PPA is available only for Standard QFs. If the Seller is unable to obtain such PPA from the Company's website, the Company will send a copy within ten (10) business days of receiving a written request. This is a template agreement and the starting point for the Company to prepare a draft agreement that conforms to the QF's specific pricing elections and project configuration.
2. In order to obtain a project-specific draft PPA for final review and potential execution, the Seller must provide in writing to the Company general project information required for the completion of the PPA, including the items described in Table 1 below:

**Table 1. Project Information Required for Standard PPA**

	<b>Project Information</b>	<b>Detail (Illustrative)</b>
(a)	Demonstration of ability to obtain QF status	FERC Form 556
(b)	Design capacity (MW), station service requirements (kw), and net amount of power to be delivered to the Company's electric system	Provide nameplate capacity (MW <sub>AC</sub> ) and expected annual amount of energy (MW <sub>h</sub> s) to be delivered including expected annual output degradation (specific to solar).
(c)	Generation technology and other related technology applicable to the site	Resource type and brief overview of project (including whether the project is proposed, under development, or existing).
(d)	Proposed site location	Town / County / State plus GPS coordinates. If applicable, identify all generating facilities within one (1) mile of the proposed project.
(e)	Schedule of monthly power deliveries	Provide monthly volume of energy (MWh) and 12 X 24 or hourly energy profiles. Energy profile should be provided electronically in a spreadsheet. If applicable, include initial year's maintenance plan.
(f)	Minimum and maximum annual deliveries	Provide an explanation of min/max volumes based on historical or projected site information.
(g)	Motive force or fuel plan	Provide supporting detail, such as an energy performance analysis.

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**Schedule QF**  
**AVOIDED COST PURCHASES AND PROCEDURES FOR**  
**QUALIFYING FACILITIES**

 I. QUALIFYING FACILITY CONTRACTING PROCEDURES: (continued)

 B. CONTRACTING PROCEDURES: (continued)

CONTRACTING PROCEDURES FOR STANDARD QFS (continued)

**Table 1. Project Information Required for Standard PPA (continued)**

	Project Information	Detail (Illustrative)
(h)	Proposed on-line date and other significant dates required to complete the milestones	Dates should reflect major milestones to develop, construct and interconnect the proposed project.
(i)	Proposed contract term and pricing provisions as defined in this schedule	Identify requested pricing options (e.g., term of PPA; firm or as-available deliveries; fixed pricing or pricing determined upon delivery) New QFs - up to 15 years from execution of PPA or 12 years from scheduled on-line date Existing QFs – 10 years from first-delivery date RCW 80.80.040-Non-Compliant QFs – less than five years from first-delivery date
(j)	Status of interconnection or transmission arrangements	<i>Proposed QFs that would interconnect to Company's system</i> – Provide interconnection queue request number, status of application, and provision of interconnection studies completed. <i>Proposed QFs that would interconnect to a third-party's transmission system and procure firm transmission to deliver to PacifiCorp's system in Washington</i> – Identify interconnecting utility, provide status of interconnection and provision of interconnection studies completed, and provide evidence of request to secure and the provision of any transmission service studies evaluating firm transmission to PacifiCorp's system in Washington.
(k)	Proposed point of delivery or interconnection	<i>Proposed QFs that would interconnect to Company's system</i> – Location of interconnection and substation including name, if known. <i>Proposed QFs that would interconnect to a third-party's transmission system and procure firm transmission to deliver to PacifiCorp's system in Washington</i> – Location of proposed point of delivery to PacifiCorp's system in Washington.

3. The Company will provide a draft PPA when all information described in Paragraph 2 above has been received in writing from the Seller and the Company confirms such information is consistent with the details that underlie the requested avoided cost pricing in the PPA, including the anticipated commercial operation date. Within fifteen (15) business days following receipt and confirmation by Company of all information required in Paragraph 2, the Company will provide Seller with a draft PPA including current standard avoided cost prices, as identified in Part II below.

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**AVOIDED COST PURCHASES AND PROCEDURES FOR**  
**QUALIFYING FACILITIES****I. QUALIFYING FACILITY CONTRACTING PROCEDURES:** (continued)**B. CONTRACTING PROCEDURES:** (continued)**CONTRACTING PROCEDURES FOR STANDARD QFS** (continued)

4. If, after reviewing the draft PPA, the Seller desires to commit to the terms and conditions it may request in writing that the Company prepare a proposed execution version of the PPA for review. No later than fifteen (15) business days after receipt of Seller's request for a proposed execution version of the PPA, Company will either (i) provide a proposed execution version of the PPA for review or (ii) request that Seller provide Company with any additional or clarifying project information that the Company reasonably determines to be necessary for the preparation of a proposed execution version of the PPA, including all associated exhibits and schedules. Such additional or clarifying information may include:
- (a) updated information of the categories described in Paragraph 2 above,
  - (b) evidence of adequate control of proposed site,
  - (c) identification of, and timelines for obtaining any necessary governmental permits, approvals or authorizations,
  - (d) fuel supply or motive force,
  - (e) anticipated timelines for completion of key project milestones, and
  - (f) any issued interconnection studies and, if applicable as provided in Paragraph 2 above, transmission arrangements associated with the project.

If Company has requested that Seller provide Company additional or clarifying information under this Paragraph 4, Company will provide a proposed execution version of the PPA to Seller for review within fifteen (15) business days after Company has all requested information necessary to complete the proposed execution version of the PPA, including all associated exhibits and schedules.

5. If Seller reviews and agrees with the proposed execution version of the PPA, it must sign and return the partially executed PPA to Company within forty-five (45) business days of receipt of the proposed execution version from Company. Upon receipt of the partially executed PPA from Seller, the Company will countersign the PPA and return a fully executed PPA to Seller within fifteen (15) business days. Prices and other terms and conditions in the PPA will not be final and binding until the PPA has been executed by both parties, subject to Section I.D of this schedule. If Seller executes the execution version of the PPA after the effective date of a change in standard avoided cost rates under Part II of this Schedule QF, the avoided cost rates in effect at the time of Seller's execution of the PPA will be applicable to such PPA.

**CONTRACTING PROCEDURES FOR NON-STANDARD QFS**

1. To obtain an indicative pricing proposal with respect to a proposed QF, the Seller must provide in writing to the Company, general project information reasonably required for the development of indicative pricing, including the items described in Table 2 below:

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**Schedule QF**  
**AVOIDED COST PURCHASES AND PROCEDURES FOR**  
**QUALIFYING FACILITIES**

 I. QUALIFYING FACILITY CONTRACTING PROCEDURES: (continued)

 B. CONTRACTING PROCEDURES: (continued)

CONTRACTING PROCEDURES FOR NON-STANDARD QFS (continued)

**Table 2. Project Information for preparation of indicative pricing for Non-Standard QF PPA**

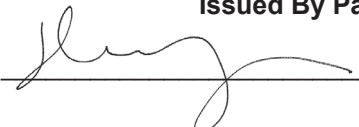
	Project Information	Detail (Illustrative)
(a)	Demonstration of ability to obtain QF status	FERC Form 556
(b)	Design capacity (MW), station service requirements (kw), and net amount of power to be delivered to the Company's electric system	Provide nameplate capacity (MW <sub>AC</sub> ) and expected annual amount of energy (MWhs) to be delivered including expected annual output degradation (specific to solar)
(c)	Generation technology and other related technology applicable to the site	Resource type and brief overview of project (including whether the project is proposed, under development, or existing).
(d)	Proposed site location	Town / County / State plus GPS coordinates. If applicable, identify all generating facilities within one (1) mile of the proposed project.
(e)	Schedule of monthly power deliveries	Provide monthly volume of energy (MWh) and 12 X 24 or hourly energy profiles. Energy profile should be provided electronically in a spreadsheet. If applicable, include initial year's maintenance plan.
(f)	Minimum and maximum annual deliveries	Provide an explanation of min/max volumes based on historical or projected site information.
(g)	Motive force or fuel plan	Provide supporting detail, such as an energy performance analysis.
(h)	Proposed on-line date and other significant dates required to complete the milestones	Dates should reflect major milestones to develop, construct and interconnect the proposed project.
(i)	Proposed contract term and pricing provisions as defined in this schedule	Identify requested pricing options (e.g., term of PPA; firm or as-available deliveries; fixed pricing or pricing determined upon delivery) New QFs - up to 15 years from execution of PPA or 12 years from scheduled on-line date Existing QFs - 10 years from first-delivery date RCW 80.80.040-Non-Compliant QFs - less than five years from first-delivery date
(j)	Status of interconnection or transmission arrangements	<i>Proposed QFs that would interconnect to Company's system</i> - Provide interconnection queue request number, status of application, and provision of interconnection studies completed. <i>Proposed QFs that would interconnect to a third-party's transmission system and procure firm transmission to deliver to PacifiCorp's system in Washington</i> - Identify interconnecting utility, provide status of interconnection and provision of interconnection studies completed, and provide evidence of request to secure and the provision of any transmission service studies evaluating firm transmission to PacifiCorp's system in Washington.
(k)	Proposed point of delivery or interconnection	<i>Proposed QFs that would interconnect to Company's system</i> - Location of interconnection and substation including name, if known. <i>Proposed QFs that would interconnect to a third-party's transmission system and procure firm transmission to deliver to PacifiCorp's system in Washington</i> - Location of proposed point of delivery to PacifiCorp's system in Washington.

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**QUALIFYING FACILITIES**

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I. QUALIFYING FACILITY CONTRACTING PROCEDURES: (continued)B. CONTRACTING PROCEDURES: (continued)CONTRACTING PROCEDURES FOR NON-STANDARD QFS (continued)

2. The Company's non-binding term sheet for a Non-Standard QF PPA may be obtained from the Company's website at [www.pacificpower.net/rates](http://www.pacificpower.net/rates). If the Seller is unable to obtain it from the Company's website, the Company will send a copy within ten (10) business days of receiving a written request.
3. The Company is not obligated to provide an indicative pricing proposal until all information described in Paragraph 1 has been received in writing from the Seller. Within twenty (20) business days following receipt of all information required in Paragraph 1, the Company will provide the Seller with an indicative pricing proposal, which may include other indicative contract terms and conditions as allowed under federal law, state law, and as approved by the Commission, tailored to the individual characteristics of the proposed project. Indicative prices will be calculated using the Commission's approved methodology, consistent with WAC 480-106-050(5).

The indicative pricing proposal may be used by the Seller to make determinations regarding project planning, financing and feasibility. However, such prices are merely indicative and are not final and binding. Prices and other terms and conditions are only final and binding to the extent contained in a PPA executed by both Seller and Company, except as provided in Section I.D of this schedule. The Company will provide the Seller with the indicative prices, and a description of the methodology used to develop the prices.

4. If the Seller desires to proceed forward with PPA negotiations after reviewing the Company's indicative pricing proposal, Seller may request in writing that the Company prepare a draft PPA to serve as the basis for negotiations. No later than twenty (20) business days after receipt of Seller's request for a draft PPA, Company will either (i) provide a draft PPA for review or (ii) request that Seller provide Company with any additional project documentation and information that the Company reasonably determines necessary to review the assumptions underlying the indicative pricing provided under Paragraph 1 above and to prepare a draft PPA, which may include:
  - (a) updated information of the categories described in Paragraph 1 above,
  - (b) evidence of adequate control of proposed site,
  - (c) identification of, and timelines for obtaining any necessary governmental permits, approvals or authorizations,
  - (d) assurance of fuel supply or motive force,
  - (e) anticipated timelines for completion of key project milestones, and
  - (f) any issued interconnection studies and, if applicable as provided in Paragraph 1 above, transmission arrangements associated with the project.

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**Schedule QF**  
**AVOIDED COST PURCHASES AND PROCEDURES FOR**  
**QUALIFYING FACILITIES**

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**I. QUALIFYING FACILITY CONTRACTING PROCEDURES: (continued)****B. CONTRACTING PROCEDURES: (continued)****CONTRACTING PROCEDURES FOR NON-STANDARD QFS (continued)**

- If Company has requested that Seller provide Company additional or clarifying information under this Paragraph 4, Company will provide a draft PPA to Seller for review within twenty (20) business days after Company has all requested information necessary to complete the draft PPA, excluding all associated exhibits and schedules. The Company is not obligated to provide Seller with a draft PPA until all information required under this Paragraph 4 has been received by the Company in writing.
5. After reviewing the draft PPA, the Seller may prepare and provide to Company an initial set of written comments and proposals to the draft PPA. The Company is not obligated to commence negotiations with the Seller until the Company has received an initial set of written comments and proposals on the draft PPA from the Seller. Following the Company's receipt of such comments and proposals, the Seller may contact the Company to schedule contract negotiations at such times and places as are mutually agreeable to Company and Seller. In connection with such negotiations, the Company:
- (a) will not unreasonably delay negotiations and will respond in good faith to any additions, deletions or modifications to the draft PPA that are proposed by the Seller,
  - (b) may request to visit the site of the proposed QF if such a visit has not previously occurred,
  - (c) will update its indicative pricing proposals at appropriate intervals to accommodate any changes to the Company's avoided-cost calculations, the proposed project or proposed terms of the draft PPA, and
  - (d) may request any additional information from the Seller necessary to finalize the terms of the PPA and satisfy the Company's due diligence with respect to the QF and proposed PPA.
6. When both Company and Seller are in full agreement as to all terms and conditions of the proposed PPA, the Company will prepare and forward to the Seller a final, execution version of the agreement within fifteen (15) business days. If Seller reviews and agrees with the proposed execution version of the PPA, it must sign and return the partially executed PPA to Company within forty-five (45) business days of receipt of the proposed execution version from Company. Upon receipt of the partially executed PPA from Seller, the Company will countersign the PPA and return a fully executed PPA to Seller within fifteen (15) business days. Prices and other terms and conditions in the proposed PPA will not be final and binding until the PPA has been executed by both Company and Seller, except as provided in Section I.D of this schedule. If Seller executes the execution version of the PPA after the effective date of a change in the approved non-standard avoided cost rates methodology applicable to this Schedule QF, the approved non-standard avoided cost rates methodology in effect at the time of Seller's execution of the PPA will be used to determine the price Company pays to Seller for the output of the project under such PPA.

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**Schedule QF**  
**AVOIDED COST PURCHASES AND PROCEDURES FOR**  
**QUALIFYING FACILITIES****I. QUALIFYING FACILITY CONTRACTING PROCEDURES:** (continued)**C. INTERCONNECTION:**<sup>1</sup>

Any Seller intending to sell power to the Company from an electric generating resource, QF or otherwise, must secure an interconnection agreement from the applicable operator of the interconnecting transmission system. The Company's obligation to make purchases from a QF Seller is therefore conditioned upon the Seller completing all necessary interconnection arrangements. It is recommended that Seller initiate its request for interconnection a minimum of twenty four (24) months ahead of the anticipated contract execution date to help ensure that necessary interconnection arrangements proceed in a timely manner and that the QF can deliver its power consistent with the anticipated in-service date that informs indicative avoided cost pricing provided by the Company. Proposed generating resources larger than 20 MWs should initiate the request for interconnection forty eight (48) months ahead of the anticipated contract execution date.

Because of functional separation requirements mandated by the Federal Energy Regulatory Commission, interconnection agreements and PPAs are handled by different functions within the Company. Interconnection agreements (both transmission and distribution level voltages) are handled by the Company's transmission function.

Seller should direct communications regarding interconnection agreements to the Company in writing at the address below:

PacifiCorp  
Director – Generation Interconnection  
825 NE Multnomah St, Suite 1600  
Portland, Oregon 97232  
Email: [Kristopher.bremer@pacificorp.com](mailto:Kristopher.bremer@pacificorp.com)

Generally, the interconnection process involves (1) initiating a request for interconnection, (2) undertaking studies to determine the system impacts associated with the interconnection and the design, cost, and schedules for constructing any necessary interconnection facilities, (3) executing an interconnection agreement to address facility construction, testing, acceptance, ownership, operation and maintenance issues, and (4) designing, constructing, commissioning and energizing of the infrastructure required for interconnection. Consistent with PURPA and Chapter 480-106 of the WAC, the Seller is responsible for all interconnection costs assessed by the Company on a nondiscriminatory basis.

<sup>1</sup> Note: This Section I.C. applies to Sellers proposing to interconnect QFs directly to PacifiCorp's electrical system. If Seller is proposing to interconnect a QF to a third-party's electrical system, the Seller must contact its local utility or transmission provider to determine the interconnection requirements and wheeling arrangement necessary to deliver the power from the QF to PacifiCorp in the State of Washington.

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**Schedule QF**  
**AVOIDED COST PURCHASES AND PROCEDURES FOR**  
**QUALIFYING FACILITIES**

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I. QUALIFYING FACILITY CONTRACTING PROCEDURES: (continued)D. DISPUTE RESOLUTION:

The Seller may petition the Commission to adjudicate any unresolved dispute between the parties relating to this schedule or Chapter 480-106 of the WAC. If an irreconcilable disagreement arises between Seller and Company during the contracting process set forth in Section I.B. above, the Seller may petition the Commission to resolve the disagreement, including making a determination about whether the Seller is entitled to a legally enforceable obligation and the date such obligation occurred based on the facts and circumstances of such case.

II. PRICING OPTIONS FOR QUALIFYING FACILITIES:A. SELECTION OF PRICING OPTION – STANDARD QFS AND NON-STANDARD QFS:

A Seller of power from a QF will select the option of payment prior to signing the PPA under one of the pricing options specified in Sections II.B through II.D below. Once an option is selected the option will remain in effect for the duration of the PPA.

PRICING OPTIONS FOR STANDARD QFS:

If the Seller of power from a Standard QF selects the pricing option in Section II.B below, the PPA will provide that the Company will pay Seller for all generation at the standard fixed prices as provided in the applicable Avoided Cost Price Tables set forth below in this schedule.

If the Seller of power from a Standard QF selects the pricing option in either Section II.C or II.D below, the PPA will provide that the Company will pay Seller for all generation as set forth in those sections, such pricing determined at the time of delivery.

PRICING OPTIONS FOR NON-STANDARD QFS:

If the Seller of power from a Non-Standard QF selects the pricing option in Section II.B below, the PPA will provide that the Company will pay Seller in accordance with a project-specific pricing proposal as described in Section I.B.3 above for Non-Standard PPAs. **Non-Standard QFs are not entitled to the pricing as provided in the Avoided Cost Price Tables below.**

If the Seller of power from a Non-Standard QF selects the pricing option in either Section II.C or II.D below, the PPA will provide that the Company will pay Seller for all generation as set forth in those sections, such pricing determined at the time of delivery.

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**Schedule QF**  
**AVOIDED COST PURCHASES AND PROCEDURES FOR**  
**QUALIFYING FACILITIES****II. PRICING OPTIONS FOR QUALIFYING FACILITIES:** (continued)**B. FIXED AVOIDED COST PRICES:**

Prices are fixed at the time that a PPA is executed, except as provided in Section I.D. of this schedule, and will not change during the term of the PPA. A Seller choosing the Fixed Avoided Cost pricing option will retain ownership of all renewable energy certificates and any other environmental attributes generated by the QF, until such time that the Seller begins receiving prices based on the avoided capacity cost of an Eligible Renewable Resource, at which time all renewable energy certificates and any other environmental attributes generated by the QF will be provided to Company at no further cost.

**C. FIRM MARKET INDEX AVOIDED COST PRICES:**

The Firm Market Index Avoided Cost pricing option is available to all QFs that contract to deliver firm power. Hourly prices paid are calculated based on the average prices reported by the Intercontinental Exchange, Inc. (ICE) Day-Ahead Mid-C On-Peak Index and the ICE Day-Ahead Mid-C Off-Peak Index (each an "ICE Index") for a given day, weighted by the count of hours for each ICE Index on such day, multiplied by the hourly CAISO day-ahead market locational marginal price for the "PACW. DGAP\_PACW-APND" location, and divided by the average of the same CAISO index over all hours in such day. If applicable, the resulting value will be reduced by the integration costs specified in this schedule as applicable to the Facility. If any index is not available for a given period, the Firm Market Price Index will be the average price derived from days in which all published data is available, for the same number of days immediately preceding and immediately succeeding the period in which an index was not available, regardless of which days of the week are used for this purpose.

**D. NON-FIRM MARKET INDEX AVOIDED COST PRICES:**

The Non-Firm Market Index Avoided Cost pricing option is available to all QFs that do not elect to provide firm or unit-contingent power. Sellers taking this option will have PPAs that do not include minimum delivery requirements, default damages for construction delay, or for under delivery or early termination, or default security for these purposes. Hourly prices paid will be 85% of the Firm Market Index Avoided Cost Prices.

**III. AVOIDED COST PRICE TABLES:**

<b>Table A.</b>	<b>Contract Prices for Standard Qualifying Facilities by Resource Type</b>
<b>Table B.</b>	<b>Avoided Cost Price Component Table – Standard Qualifying Facilities – Estimated Avoided Energy Costs</b>
<b>Table C.</b>	<b>Avoided Cost Price Component Table – Standard Qualifying Facilities – Estimated Avoided Capacity Costs</b>
<b>Table D.</b>	<b>Avoided Cost Price Table – Standard Qualifying Facilities – Integration Costs</b>

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**QUALIFYING FACILITIES**

 III. AVOIDED COST PRICE TABLES: (continued)
**TABLE A. CONTRACT PRICES – STANDARD QUALIFYING FACILITIES\***

Year	BASELOAD					WIND				
	Combined Energy and Capacity Prices					Combined Energy and Capacity Prices (1)				
	Wtd. Avg.	On-Peak	Off-Peak	On-Peak	Off-Peak	Wtd. Avg.	On-Peak	Off-Peak	On-Peak	Off-Peak
		Winter	Winter	Summer	Summer		Winter	Winter	Summer	Summer
	(\$/MWh)					(\$/MWh)				
	(a)	(b)	(c)	(d)	(e)	(a)	(b)	(c)	(d)	(e)
2020	\$42.97	\$45.24	\$30.27	\$73.99	\$50.58	\$32.38	\$40.03	\$24.22	\$52.96	\$32.64
2021	\$48.76	\$52.83	\$33.63	\$84.09	\$57.19	\$38.02	\$47.76	\$27.65	\$62.97	\$38.89
2022	\$48.27	\$50.94	\$32.08	\$86.57	\$58.72	\$37.12	\$45.56	\$26.05	\$64.63	\$40.00
2023	\$45.93	\$44.64	\$28.78	\$89.36	\$59.67	\$34.31	\$39.15	\$22.70	\$66.55	\$40.56
2024	\$47.12	\$42.37	\$28.07	\$98.46	\$64.31	\$34.99	\$36.85	\$21.90	\$74.66	\$44.86
2025	\$50.60	\$45.53	\$29.95	\$106.56	\$68.81	\$38.04	\$39.98	\$23.66	\$81.53	\$48.91
2026	\$53.12	\$48.64	\$31.85	\$110.33	\$71.33	\$40.38	\$43.05	\$25.44	\$85.38	\$50.99
2027	\$54.29	\$49.77	\$32.75	\$111.82	\$72.92	\$41.30	\$44.06	\$26.17	\$86.43	\$52.18
2028 (2)	\$56.65	\$51.98	\$34.15	\$117.00	\$76.12	\$43.31	\$46.13	\$27.41	\$90.99	\$54.90
2029	\$59.06	\$54.19	\$35.45	\$122.39	\$79.26	\$45.21	\$48.25	\$28.55	\$94.60	\$57.37
2030	\$60.96	\$55.46	\$36.46	\$127.27	\$82.05	\$46.70	\$49.34	\$29.35	\$98.98	\$59.60
2031	\$63.39	\$57.79	\$37.96	\$132.05	\$85.31	\$48.82	\$51.57	\$30.67	\$103.47	\$62.32
2032	\$65.80	\$60.57	\$39.78	\$135.84	\$88.05	\$51.07	\$54.36	\$32.41	\$107.03	\$64.67
2033	\$70.09	\$63.74	\$41.99	\$146.77	\$94.06	\$54.72	\$57.30	\$34.36	\$116.74	\$70.12
2034	\$72.99	\$65.89	\$43.29	\$154.93	\$98.23	\$57.12	\$59.32	\$35.48	\$124.00	\$73.65
2035	\$76.23	\$68.03	\$44.42	\$166.43	\$102.66	\$59.52	\$61.36	\$36.46	\$131.65	\$77.35
2036	\$77.36	\$69.07	\$45.44	\$167.57	\$104.39	\$60.44	\$62.15	\$37.21	\$133.84	\$78.40
2037	\$85.35	\$74.01	\$48.40	\$193.97	\$115.94	\$67.39	\$67.11	\$40.03	\$157.46	\$89.29
2038	\$89.15	\$78.07	\$50.87	\$201.17	\$120.41	\$70.80	\$71.10	\$42.36	\$163.54	\$93.25
2039	\$91.70	\$80.45	\$52.59	\$205.62	\$123.85	\$72.93	\$73.17	\$43.80	\$167.75	\$96.07

(1) Avoided cost prices have been reduced by wind and solar integration charges.

If the QF resource is not in PacifiCorp's BAA, prices will be increased by the applicable integration charges.

(2) Capacity costs are based on a renewable resource starting in 2028.

- (a) Illustrative price for all hours
- (b) On-peak Winter hours: 6:00a - 8:00a and 5:00p - 11:00p Pacific Prevailing Time (PPT), Oct. through May
- (c) Off-peak Winter hours: All other hours, Oct. through May
- (d) On-peak Summer hours: 2:00p - 10:00p PPT, June through September
- (e) Off-peak Summer hours: All other hours, June through September

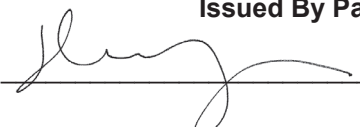
\* Note – Only Standard QFs are eligible for the pricing provided in this Table. Table includes Combined Avoided Energy and Capacity Costs and applicable to the specific resource type.

(continued)

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 By:  Etta Lockey

**Title:** Vice President, Regulation

**Schedule QF**  
**AVOIDED COST PURCHASES AND PROCEDURES FOR**  
**QUALIFYING FACILITIES**

 III. AVOIDED COST PRICE TABLES: (continued)
**TABLE A (continued). CONTRACT PRICES – STANDARD QUALIFYING FACILITIES**

Year	FIXED TILT SOLAR					TRACKING SOLAR				
	Combined Energy and Capacity Prices (1)					Combined Energy and Capacity Prices (1)				
	Wtd. Avg.	On-Peak Winter	Off-Peak Winter	On-Peak Summer	Off-Peak Summer	Wtd. Avg.	On-Peak Winter	Off-Peak Winter	On-Peak Summer	Off-Peak Summer
	(\$/MWh)					(\$/MWh)				
	(a)	(b)	(c)	(d)	(e)	(a)	(b)	(c)	(d)	(e)
2020	\$24.24	\$26.17	\$19.75	\$37.85	\$27.00	\$24.66	\$26.25	\$17.85	\$40.15	\$26.74
2021	\$29.29	\$33.24	\$23.85	\$45.06	\$32.70	\$29.81	\$33.17	\$21.86	\$47.42	\$32.16
2022	\$29.15	\$34.98	\$22.60	\$46.80	\$33.62	\$30.66	\$36.05	\$21.38	\$50.10	\$33.57
2023	\$27.67	\$30.55	\$19.17	\$48.92	\$34.48	\$29.99	\$31.46	\$18.27	\$53.59	\$34.81
2024	\$29.16	\$28.11	\$18.16	\$55.51	\$38.87	\$31.91	\$28.26	\$17.19	\$60.79	\$39.10
2025	\$32.00	\$30.28	\$19.65	\$61.29	\$42.98	\$34.96	\$30.37	\$18.55	\$66.73	\$43.16
2026	\$33.75	\$32.51	\$21.12	\$64.05	\$44.79	\$36.93	\$32.60	\$19.93	\$70.49	\$45.12
2027	\$34.36	\$32.85	\$21.70	\$64.59	\$45.53	\$37.45	\$32.78	\$20.38	\$70.75	\$45.89
2028 (2)	\$36.14	\$34.37	\$22.71	\$68.09	\$48.10	\$39.46	\$34.34	\$21.31	\$74.67	\$48.56
2029	\$37.78	\$36.00	\$23.66	\$71.51	\$50.21	\$41.21	\$35.97	\$22.21	\$77.99	\$50.69
2030	\$39.22	\$35.96	\$24.35	\$74.94	\$52.38	\$42.78	\$35.66	\$22.66	\$82.17	\$52.89
2031	\$40.96	\$37.44	\$25.40	\$78.31	\$54.75	\$44.75	\$37.13	\$23.62	\$86.22	\$55.34
2032	\$42.66	\$39.61	\$26.76	\$80.68	\$56.85	\$46.54	\$39.16	\$24.96	\$88.64	\$57.46
2033	\$46.31	\$41.47	\$28.39	\$88.59	\$62.56	\$50.64	\$40.95	\$26.34	\$97.31	\$63.35
2034	\$48.77	\$43.09	\$29.29	\$94.60	\$66.48	\$53.63	\$42.65	\$27.21	\$104.59	\$67.44
2035	\$51.75	\$45.20	\$30.19	\$102.34	\$71.45	\$56.96	\$44.89	\$28.15	\$111.67	\$72.32
2036	\$52.22	\$44.83	\$30.80	\$103.41	\$71.67	\$57.59	\$44.24	\$28.51	\$114.77	\$72.64
2037	\$60.19	\$48.44	\$33.15	\$123.69	\$85.20	\$67.06	\$47.82	\$30.73	\$137.81	\$86.39
2038	\$63.13	\$52.01	\$35.10	\$128.36	\$89.17	\$70.21	\$51.51	\$32.67	\$142.18	\$90.42
2039	\$64.92	\$53.28	\$36.41	\$131.23	\$91.44	\$72.13	\$52.59	\$33.77	\$145.69	\$92.86

(1) Avoided cost prices have been reduced by wind and solar integration charges.

If the QF resource is not in PacifiCorp's BAA, prices will be increased by the applicable integration charges.

(2) Capacity costs are based on a renewable resource starting in 2028.

(a) Illustrative price for all hours

(b) On-peak Winter hours: 6:00a - 8:00a and 5:00p - 11:00p Pacific Prevailing Time (PPT), Oct. through May

(c) Off-peak Winter hours: All other hours, Oct. through May

(d) Off-peak Winter hours: All other hours, Oct. through September

(e) On-peak Summer hours: 2:00p - 10:00p PPT, June through September

(f) Off-peak Summer hours: All other hours, June through September

\* Note – Only Standard QFs are eligible for the pricing provided in this Table. Table includes Combined Avoided Energy and Capacity Costs and applicable to the specific resource type.

(continued)

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 By:  Etta Lockey

**Title: Vice President, Regulation**

**Schedule QF**  
**AVOIDED COST PURCHASES AND PROCEDURES FOR**  
**QUALIFYING FACILITIES**

 III. AVOIDED COST PRICE TABLES: (continued)
AVOIDED COST PRICE COMPONENT TABLES
**TABLE B. AVOIDED COST PRICE TABLE – STANDARD QUALIFYING FACILITIES –**  
**ESTIMATED AVOIDED ENERGY COSTS**

Year	Baseload					Wind				
	Avoided Energy Prices					Avoided Energy Prices (1)				
	Wtd. Avg.	On-Peak Winter	Off-Peak Winter	On-Peak Summer	Off-Peak Summer	Wtd. Avg.	On-Peak Winter	Off-Peak Winter	On-Peak Summer	Off-Peak Summer
	(\$/MWh)					(\$/MWh)				
	(a)	(b)	(c)	(d)	(e)	(a)	(b)	(c)	(d)	(e)
2020	\$29.83	\$38.59	\$23.63	\$47.86	\$24.45	\$28.31	\$38.10	\$22.29	\$43.61	\$23.29
2021	\$35.31	\$46.03	\$26.84	\$57.38	\$30.48	\$33.85	\$45.79	\$25.68	\$53.42	\$29.33
2022	\$34.51	\$43.99	\$25.13	\$59.25	\$31.40	\$32.85	\$43.54	\$24.03	\$54.86	\$30.23
2023	\$31.87	\$37.53	\$21.68	\$61.44	\$31.75	\$29.95	\$37.09	\$20.64	\$56.56	\$30.57
2024	\$32.77	\$35.12	\$20.81	\$69.93	\$35.78	\$30.54	\$34.74	\$19.79	\$64.45	\$34.65
2025	\$35.92	\$38.11	\$22.53	\$77.40	\$39.65	\$33.48	\$37.83	\$21.51	\$71.09	\$38.48
2026	\$38.11	\$41.05	\$24.27	\$80.52	\$41.53	\$35.73	\$40.85	\$23.23	\$74.72	\$40.33
2027	\$38.95	\$42.02	\$25.00	\$81.37	\$42.46	\$36.54	\$41.81	\$23.92	\$75.53	\$41.28
2028	\$40.97	\$44.06	\$26.22	\$85.84	\$44.96	\$38.46	\$43.83	\$25.11	\$79.84	\$43.75
2029	\$43.00	\$46.08	\$27.34	\$90.51	\$47.39	\$40.23	\$45.90	\$26.20	\$83.19	\$45.96
2030	\$44.53	\$47.17	\$28.17	\$94.66	\$49.44	\$41.61	\$46.93	\$26.93	\$87.31	\$47.93
2031	\$46.60	\$49.31	\$29.47	\$98.69	\$51.95	\$43.61	\$49.11	\$28.20	\$91.53	\$50.38
2032	\$48.64	\$51.88	\$31.10	\$101.71	\$53.93	\$45.75	\$51.83	\$29.88	\$94.82	\$52.46
2033	\$52.53	\$54.87	\$33.12	\$111.89	\$59.18	\$49.27	\$54.72	\$31.78	\$104.26	\$57.64
2034	\$55.04	\$56.82	\$34.22	\$119.29	\$62.58	\$51.55	\$56.68	\$32.85	\$111.24	\$60.89
2035	\$57.89	\$58.76	\$35.15	\$130.00	\$66.24	\$53.83	\$58.67	\$33.77	\$118.62	\$64.32
2036	\$58.64	\$59.60	\$35.97	\$130.34	\$67.16	\$54.63	\$59.40	\$34.46	\$120.52	\$65.08
2037	\$66.19	\$64.33	\$38.72	\$155.92	\$77.89	\$61.45	\$64.30	\$37.21	\$143.85	\$75.67
2038	\$69.57	\$68.18	\$40.98	\$162.28	\$81.52	\$64.72	\$68.23	\$39.49	\$149.62	\$79.33
2039	\$71.69	\$70.34	\$42.48	\$165.88	\$84.11	\$66.72	\$70.23	\$40.86	\$153.53	\$81.85

(1) Avoided cost prices have been reduced by wind and solar integration charges.

If the QF resource is not in PacifiCorp's BAA, prices will be increased by the applicable integration charges.

- (a) Illustrative price for all hours
- (b) On-peak Winter hours: 6:00a - 8:00a and 5:00p - 11:00p Pacific Prevailing Time (PPT), Oct. through May
- (c) Off-peak Winter hours: All other hours, Oct. through May
- (d) On-peak Summer hours: 2:00p - 10:00p PPT, June through September
- (e) Off-peak Summer hours: All other hours, June through September


(continued)

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**Title:** Vice President, Regulation

**Schedule QF**  
**AVOIDED COST PURCHASES AND PROCEDURES FOR**  
**QUALIFYING FACILITIES**

 III. AVOIDED COST PRICE TABLES: (continued)

AVOIDED COST PRICE COMPONENT TABLES (continued)

**TABLE B (continued). AVOIDED COST PRICE TABLE – STANDARD QUALIFYING FACILITIES – ESTIMATED AVOIDED ENERGY COSTS**

	Fixed Tilt Solar					Tracking Solar				
	Avoided Energy Prices (1)					Avoided Energy Prices (1)				
	Wtd. Avg.	On-Peak	Off-Peak	On-Peak	Off-Peak	Wtd. Avg.	On-Peak	Off-Peak	On-Peak	Off-Peak
		Winter	Winter	Summer	Summer		Winter	Winter	Summer	Summer
	(\$/MWh)					(\$/MWh)				
	(a)	(b)	(c)	(d)	(e)	(a)	(b)	(c)	(d)	(e)
2020	\$23.18	\$25.55	\$19.13	\$36.22	\$25.37	\$23.60	\$25.52	\$17.12	\$38.76	\$25.36
2021	\$28.21	\$32.60	\$23.21	\$43.39	\$31.03	\$28.72	\$32.43	\$21.11	\$46.00	\$30.75
2022	\$28.05	\$34.33	\$21.95	\$45.09	\$31.91	\$29.55	\$35.29	\$20.62	\$48.66	\$32.13
2023	\$26.54	\$29.88	\$18.50	\$47.17	\$32.73	\$28.85	\$30.68	\$17.49	\$52.11	\$33.33
2024	\$28.00	\$27.43	\$17.47	\$53.72	\$37.09	\$30.75	\$27.46	\$16.39	\$59.28	\$37.59
2025	\$30.82	\$29.58	\$18.95	\$59.47	\$41.16	\$33.78	\$29.55	\$17.74	\$65.19	\$41.62
2026	\$32.54	\$31.80	\$20.41	\$62.19	\$42.93	\$35.72	\$31.76	\$19.10	\$68.91	\$43.55
2027	\$33.13	\$32.12	\$20.97	\$62.69	\$43.63	\$36.22	\$31.93	\$19.53	\$69.14	\$44.27
2028	\$34.88	\$33.62	\$21.97	\$66.15	\$46.15	\$38.20	\$33.47	\$20.44	\$73.03	\$46.91
2029	\$36.49	\$35.24	\$22.90	\$69.52	\$48.21	\$39.91	\$35.08	\$21.32	\$76.31	\$49.00
2030	\$37.90	\$35.18	\$23.57	\$72.90	\$50.34	\$41.45	\$34.75	\$21.75	\$80.45	\$51.17
2031	\$39.61	\$36.64	\$24.61	\$76.23	\$52.67	\$43.39	\$36.19	\$22.69	\$84.46	\$53.58
2032	\$41.28	\$38.80	\$25.95	\$78.55	\$54.72	\$45.15	\$38.21	\$24.00	\$86.84	\$55.66
2033	\$44.90	\$40.63	\$27.55	\$86.41	\$60.38	\$49.22	\$39.98	\$25.37	\$95.47	\$61.50
2034	\$47.33	\$42.24	\$28.44	\$92.37	\$64.26	\$52.18	\$41.65	\$26.21	\$102.71	\$65.55
2035	\$50.28	\$44.33	\$29.32	\$100.06	\$69.17	\$55.48	\$43.87	\$27.13	\$109.74	\$70.39
2036	\$50.71	\$43.94	\$29.91	\$101.08	\$69.35	\$56.07	\$43.20	\$27.47	\$112.81	\$70.67
2037	\$58.65	\$47.53	\$32.24	\$121.31	\$82.83	\$65.51	\$46.76	\$29.67	\$135.80	\$84.37
2038	\$61.56	\$51.08	\$34.17	\$125.93	\$86.74	\$68.63	\$50.43	\$31.58	\$140.12	\$88.36
2039	\$63.31	\$52.33	\$35.46	\$128.75	\$88.96	\$70.52	\$51.48	\$32.66	\$143.59	\$90.76

(1) Avoided cost prices have been reduced by wind and solar integration charges.

If the QF resource is not in PacifiCorp's BAA, prices will be increased by the applicable integration charges.

- (a) Illustrative price for all hours
- (b) On-peak Winter hours: 6:00a - 8:00a and 5:00p - 11:00p Pacific Prevailing Time (PPT), Oct. through May
- (c) Off-peak Winter hours: All other hours, Oct. through May
- (d) On-peak Summer hours: 2:00p - 10:00p PPT, June through September
- (e) Off-peak Summer hours: All other hours, June through September

(continued)

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By:



Etta Lockey

**Title:** Vice President, Regulation

**Schedule QF**  
**AVOIDED COST PURCHASES AND PROCEDURES FOR**  
**QUALIFYING FACILITIES**

 III. AVOIDED COST PRICE TABLES: (continued)  
AVOIDED COST PRICE COMPONENT TABLES (continued)

**TABLE C. AVOIDED COST PRICE TABLE – STANDARD QUALIFYING FACILITIES –  
 ESTIMATED AVOIDED CAPACITY COSTS**

Year	Levelized Avoided Capacity Cost Costs  \$/MW-yr (a) Capacity Contribution: C.F. Weighting:	Baseload			
		Winter Capacity	Summer Capacity	Winter Capacity	Summer Capacity
		Costs	Costs	Costs	Costs
				All Hours	All Hours
		\$/MW-yr	\$/MW-yr	\$/MWH	\$/MWH
		(b)	(c)	(d)	(e)
		100.00%	100.00%		
				67%	33%
2020	\$115,313	\$38,807	\$76,506	\$6.65	\$26.13
2021	\$117,850	\$39,661	\$78,189	\$6.79	\$26.70
2022	\$120,561	\$40,573	\$79,988	\$6.95	\$27.32
2023	\$123,213	\$41,465	\$81,747	\$7.10	\$27.92
2024	\$125,924	\$42,378	\$83,546	\$7.26	\$28.53
2025	\$128,694	\$43,310	\$85,384	\$7.42	\$29.16
2026	\$131,525	\$44,263	\$87,262	\$7.58	\$29.80
2027	\$134,419	\$45,237	\$89,182	\$7.75	\$30.46
2028	\$137,510	\$46,277	\$91,233	\$7.93	\$31.16
2029	\$140,673	\$47,341	\$93,332	\$8.11	\$31.88
2030	\$143,909	\$48,430	\$95,478	\$8.30	\$32.61
2031	\$147,219	\$49,544	\$97,674	\$8.49	\$33.36
2032	\$150,605	\$50,684	\$99,921	\$8.68	\$34.13
2033	\$153,918	\$51,799	\$102,119	\$8.87	\$34.88
2034	\$157,304	\$52,938	\$104,366	\$9.07	\$35.64
2035	\$160,765	\$54,103	\$106,662	\$9.27	\$36.43
2036	\$164,302	\$55,293	\$109,008	\$9.47	\$37.23
2037	\$167,916	\$56,510	\$111,407	\$9.68	\$38.05
2038	\$171,610	\$57,753	\$113,857	\$9.89	\$38.89
2039	\$175,386	\$59,023	\$116,362	\$10.11	\$39.74

Capacity Contribution: 2017 IRP, Appendix N

Capacity Factor Weighting: The resource's annual capacity factor divided by season.

- (a) Levelized capacity cost at 100% capacity contribution
- (b),(c) Summer-winter split based on months and 2017 IRP loss of load probability
- (d) Winter Capacity Cost (b) divided by seasonal capacity factor weighting
- (e) Summer Capacity Cost (c) divided by seasonal capacity factor weighting

(continued)

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Title: Vice President, Regulation

**Schedule QF**  
**AVOIDED COST PURCHASES AND PROCEDURES FOR**  
**QUALIFYING FACILITIES**

 III. AVOIDED COST PRICE TABLES: (continued)  
AVOIDED COST PRICE COMPONENT TABLES (continued)
**TABLE C (continued). AVOIDED COST PRICE TABLE – STANDARD QUALIFYING FACILITIES –**  
**ESTIMATED AVOIDED CAPACITY COSTS**

Year	Wind				Fixed Tilt Solar			
	Winter Capacity	Summer Capacity	Winter Capacity	Summer Capacity	Winter Capacity	Summer Capacity	Winter Capacity	Summer Capacity
	Costs	Costs	Costs	Costs	Costs	Costs	Costs	Costs
			All Hours	All Hours			All Hours	All Hours
	\$/MW-yr	\$/MW-yr	\$/MWH	\$/MWH	\$/MW-yr	\$/MW-yr	\$/MWH	\$/MWH
	(b)	(c)	(d)	(e)	(b)	(c)	(d)	(e)
	Capacity Contribution:	11.78%	11.78%		2.00%	2.00%		
C.F. Weighting:			27%	11%			14%	11%
2020	\$4,570	\$9,010	\$1.93	\$9.35	\$776	\$1,530	\$0.62	\$1.63
2021	\$4,671	\$9,208	\$1.97	\$9.56	\$793	\$1,564	\$0.64	\$1.67
2022	\$4,778	\$9,420	\$2.02	\$9.78	\$811	\$1,600	\$0.65	\$1.71
2023	\$4,883	\$9,627	\$2.06	\$9.99	\$829	\$1,635	\$0.67	\$1.74
2024	\$4,991	\$9,839	\$2.11	\$10.21	\$848	\$1,671	\$0.68	\$1.78
2025	\$5,100	\$10,055	\$2.16	\$10.43	\$866	\$1,708	\$0.70	\$1.82
2026	\$5,213	\$10,276	\$2.20	\$10.66	\$885	\$1,745	\$0.71	\$1.86
2027	\$5,327	\$10,502	\$2.25	\$10.90	\$905	\$1,784	\$0.73	\$1.90
2028	\$5,450	\$10,744	\$2.30	\$11.15	\$926	\$1,825	\$0.74	\$1.95
2029	\$5,575	\$10,991	\$2.36	\$11.41	\$947	\$1,867	\$0.76	\$1.99
2030	\$5,703	\$11,244	\$2.41	\$11.67	\$969	\$1,910	\$0.78	\$2.04
2031	\$5,835	\$11,503	\$2.47	\$11.94	\$991	\$1,953	\$0.80	\$2.08
2032	\$5,969	\$11,767	\$2.52	\$12.21	\$1,014	\$1,998	\$0.82	\$2.13
2033	\$6,100	\$12,026	\$2.58	\$12.48	\$1,036	\$2,042	\$0.83	\$2.18
2034	\$6,234	\$12,291	\$2.64	\$12.75	\$1,059	\$2,087	\$0.85	\$2.23
2035	\$6,371	\$12,561	\$2.69	\$13.04	\$1,082	\$2,133	\$0.87	\$2.28
2036	\$6,512	\$12,837	\$2.75	\$13.32	\$1,106	\$2,180	\$0.89	\$2.33
2037	\$6,655	\$13,120	\$2.81	\$13.61	\$1,130	\$2,228	\$0.91	\$2.38
2038	\$6,801	\$13,408	\$2.88	\$13.91	\$1,155	\$2,277	\$0.93	\$2.43
2039	\$6,951	\$13,703	\$2.94	\$14.22	\$1,180	\$2,327	\$0.95	\$2.48

Capacity Contribution: 2017 IRP, Appendix N (wind), UE-190666, Order 01 (solar)

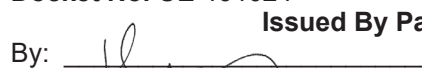
Capacity Factor Weighting: The resource's annual capacity factor divided by season.

- (a) Levelized capacity cost at 100% capacity contribution
- (b),(c) Summer-winter split based on months and 2017 IRP loss of load probability
- (d) Winter Capacity Cost (b) divided by seasonal capacity factor weighting
- (e) Summer Capacity Cost (c) divided by seasonal capacity factor weighting

(continued)

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**Title:** Vice President, Regulation



**Schedule QF**  
**AVOIDED COST PURCHASES AND PROCEDURES FOR**  
**QUALIFYING FACILITIES**

 III. AVOIDED COST PRICE TABLES: (continued)  
AVOIDED COST PRICE COMPONENT TABLES (continued)
**TABLE C (continued). AVOIDED COST PRICE TABLE – STANDARD QUALIFYING FACILITIES – ESTIMATED AVOIDED CAPACITY COSTS**

Year	Tracking Solar			
	Winter Capacity	Summer Capacity	Winter Capacity	Summer Capacity
	Costs	Costs	Costs	Costs
			All Hours	All Hours
	\$/MW-yr	\$/MW-yr	\$/MWH	\$/MWH
	(b)	(c)	(d)	(e)
Capacity Contribution:	2.00%	2.00%		
C.F. Weighting:			12%	13%
2020	\$776	\$1,530	\$0.73	\$1.38
2021	\$793	\$1,564	\$0.75	\$1.41
2022	\$811	\$1,600	\$0.76	\$1.44
2023	\$829	\$1,635	\$0.78	\$1.48
2024	\$848	\$1,671	\$0.80	\$1.51
2025	\$866	\$1,708	\$0.82	\$1.54
2026	\$885	\$1,745	\$0.83	\$1.58
2027	\$905	\$1,784	\$0.85	\$1.61
2028	\$926	\$1,825	\$0.87	\$1.65
2029	\$947	\$1,867	\$0.89	\$1.69
2030	\$969	\$1,910	\$0.91	\$1.72
2031	\$991	\$1,953	\$0.93	\$1.76
2032	\$1,014	\$1,998	\$0.95	\$1.80
2033	\$1,036	\$2,042	\$0.97	\$1.84
2034	\$1,059	\$2,087	\$1.00	\$1.88
2035	\$1,082	\$2,133	\$1.02	\$1.93
2036	\$1,106	\$2,180	\$1.04	\$1.97
2037	\$1,130	\$2,228	\$1.06	\$2.01
2038	\$1,155	\$2,277	\$1.09	\$2.06
2039	\$1,180	\$2,327	\$1.11	\$2.10

Capacity Contribution: UE-190666, Order 01 (solar)

Capacity Factor Weighting: The resource's annual capacity factor divided by season.

- (a) Levelized capacity cost at 100% capacity contribution
- (b),(c) Summer-winter split based on months and 2017 IRP loss of load probability
- (d) Winter Capacity Cost (b) divided by seasonal capacity factor weighting
- (e) Summer Capacity Cost (c) divided by seasonal capacity factor weighting

(continued)

**Issued:** December 18, 2020

**Effective:** January 1, 2021

**Docket No.** UE-191024

**Issued By** PacifiCorp d/b/a Pacific Power & Light Company

 By:  Etta Lockey

**Title:** Vice President, Regulation

**Schedule QF**  
**AVOIDED COST PURCHASES AND PROCEDURES FOR**  
**QUALIFYING FACILITIES**III. AVOIDED COST PRICE TABLES: (continued)AVOIDED COST PRICE COMPONENT TABLES (continued)**TABLE D. AVOIDED COST PRICE TABLE – STANDARD QUALIFYING FACILITIES –  
INTEGRATION COSTS**

<b>Year</b>	<b>Wind QF Integration Cost \$/MWh</b>	<b>Solar QF Integration Cost \$/MWh</b>
2016	\$0.57	\$0.60
2017	\$0.58	\$0.62
2018	\$0.59	\$0.63
2019	\$0.60	\$0.64
2020	\$0.61	\$0.65
2021	\$0.62	\$0.66
2022	\$0.63	\$0.68
2023	\$0.64	\$0.69
2024	\$0.65	\$0.71
2025	\$0.66	\$0.73
2026	\$0.67	\$0.75
2027	\$0.68	\$0.77
2028	\$0.70	\$0.79
2029	\$0.72	\$0.81
2030	\$0.74	\$0.83
2031	\$0.76	\$0.85
2032	\$0.78	\$0.87
2033	\$0.80	\$0.89
2034	\$0.82	\$0.91
2035	\$0.84	\$0.93
2036	\$0.86	\$0.95
2037	\$0.88	\$0.97
2038	\$0.90	\$0.99
2039	\$0.92	\$1.01

Source: 2017 IRP Volume II-Appendix F

**Issued:** December 18, 2020  
**Docket No.** UE-191024**Effective:** January 1, 2021**Issued By** PacifiCorp d/b/a Pacific Power & Light CompanyBy: 

Etta Lockey

**Title:** Vice President, Regulation

**EXHIBIT L**  
**PARTY NOTICE INFORMATION**

<b>Notices</b>	<b>PacifiCorp</b>	<b>Sunnyside Solar, LLC</b>
<b>All Notices:</b>	PacifiCorp 825 NE Multnomah, Suite 600 Portland, Oregon 97232- 2315  Attn: Contract Administration E-mail: <a href="mailto:cntadmin@pacificorp.com">cntadmin@pacificorp.com</a>	Sunnyside Solar, LLC c/o OneEnergy Development, LLC 2003 Western Avenue, Suite 225 Seattle WA 98121 206-922-7072 Attn: General Counsel <a href="mailto:jlamb@oneenergyrenewables.com">jlamb@oneenergyrenewables.com</a>  with a copy to: <a href="mailto:bill@oneenergyrenewables.com">bill@oneenergyrenewables.com</a>
<b>All Invoices:</b>	Attn: Back Office, Suite 1900  Email: <a href="mailto:powerinvoices@pacificorp.com">powerinvoices@pacificorp.com</a>	Attn: Accounting  <a href="mailto:Accounting@oneenergyrenewables.com">Accounting@oneenergyrenewables.com</a>
<b>Scheduling:</b>	Attn: Pre-Scheduling, Suite 600  Phone: (503) 813-6090 Email: <a href="mailto:ctpreschd@pacificorp.com">ctpreschd@pacificorp.com</a>	Attn: Projects  <a href="mailto:projects@oneenergyrenewables.com">projects@oneenergyrenewables.com</a>
<b>Payments:</b>	Attn: Central Cashiers Office, Suite 550  Phone: (503) 813-6826	Attn: Accounting  <a href="mailto:Accounting@oneenergyrenewables.com">Accounting@oneenergyrenewables.com</a>
<b>Wire Transfer:</b>	To be provided in separate letter from PacifiCorp to Project Manager	To be provided by separate letter
<b>Credit and Collections:</b>	Attn: Credit Manager, Suite 600  Phone (503) 813-7280	Attn: Accounting  <a href="mailto:Accounting@oneenergyrenewables.com">Accounting@oneenergyrenewables.com</a>
<b>Notices of an Event of Default or Potential Event of Default:</b>	PacifiCorp Legal Department 825 NE Multnomah, Suite 2000 Portland, Oregon 97232- 2315  Attn: Assistant General Counsel	Attn: General Counsel <a href="mailto:jlamb@oneenergyrenewables.com">jlamb@oneenergyrenewables.com</a>  with a copy to: <a href="mailto:bill@oneenergyrenewables.com">bill@oneenergyrenewables.com</a>

## EXHIBIT M

### QUALIFIED REPORTING ENTITY SERVICES AGREEMENT

Energy Supply Management Master v4.1a; 03122019

This Qualified Reporting Entity Services Agreement (this “Agreement”) is entered into by and between PacifiCorp (“PacifiCorp”) and [ ] (“Counterparty”; PacifiCorp and Counterparty may be referred to individually herein as “Party” and collectively as “Parties”) as of the date signed by both Parties with reference to the following:

WHEREAS, Counterparty represents to PacifiCorp that it owns or otherwise has the rights to all or part of the non-energy attributes of the generation from that certain electric generation facility as more particularly described in Exhibit A (the “Facility”) as such rights are defined in that power purchase agreement between PacifiCorp and Counterparty (the “PPA”), or other rights respecting the Facility itself enabling it to lawfully enter hereinto; and

WHEREAS, the Western Renewable Electricity Generation Information System (“WREGIS”) is a system tracking quantities of renewable energy generation generated by electric generating facilities in the nature of the Facility, as a Facility pursuant to WREGIS Terms of Use (“TOU”); and

WHEREAS, WREGIS requires that each Facility have a designated Qualified Reporting Entity; and

WHEREAS, Counterparty is an Account Holder in WREGIS and wishes to register the Facility with WREGIS; and

WHEREAS, Counterparty wishes to retain PacifiCorp to act as its WREGIS-defined Qualified Reporting Entity (“QRE”) for the Facility;

NOW THEREFORE, in consideration of the mutual promises herein contained, the Parties agree as follows:

#### I. Definitions; Rules of Construction.

1.1 Initially capitalized terms used and not otherwise defined herein are defined in the in the WREGIS Operating Rules or in Attachment 1 *Definitions* of the WREGIS TOU.

1.2 “Affiliate” means, with respect to any entity, each entity that directly or indirectly controls, is controlled by, or is under common control with, such designated entity, with “control” meaning the possession, directly or indirectly, of the power to direct management and policies, whether through the ownership of voting securities or by contract or otherwise. Notwithstanding the foregoing, with respect to PacifiCorp, Affiliate shall only include Berkshire Hathaway Energy Company and its direct, wholly owned subsidiaries.

1.3 “Business Day” means a day of the week other than Saturday, Sunday, or a federal holiday.

1.4 “Electric System Authority” means each of NERC, WECC, WREGIS, a regional transmission organization, a regional or sub-regional reliability council or authority, and any other similar council, corporation, organization or body of recognized standing with respect to the operations of the electric system in the WECC region.

1.5 “FERC” means the Federal Energy Regulatory Commission.

1.6 “Generation Interconnection Agreement” means the agreement entered into separately between Counterparty and Interconnection Provider concerning the Interconnection Facilities.

1.7 “Facility” is defined in the Preamble.

1.8 “Interconnection Facilities” means all the facilities installed, or to be installed, for the purpose of interconnecting the Facility to the System, including electrical transmission lines, upgrades, transformers and associated equipment, substations, relay and switching equipment, and safety equipment.

1.9 “Interconnection Provider” means the FERC-regulated or United States Department of Energy entity with whom the Facility has contracted for interconnection to the electric transmission grid; in the event Interconnection Provider is PacifiCorp, PacifiCorp would be the Interconnection Provider operating in its regulated transmission function, and not as the party hereto.

1.10 “Metering External Webpage” means a website owned and operated by PacifiCorp that PacifiCorp may at its option, but without being obligated to do so, make available and operate for the display of all data that will be included in the Monthly Generation Extract File.

1.11 “Monthly Generation Extract File” means a data file that contains generation data from Counterparty’s Points of Metering and conforms to the characteristics and requirements set forth in the WREGIS Interface Control Document.

1.12 “NERC” means the North American Electric Reliability Corporation.

1.13 “Points of Metering” means the points at which electric generation is measured.

1.14 “PPA” is defined in the Preamble.

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

1.16 “QRE” means a WREGIS-defined Qualified Reporting Entity.

1.17 “Renewable” is defined in section 2 of the WREGIS Operating Rules.

1.18 “Requirements of Law” means any applicable federal, state and local law, statute, regulation, rule, code or ordinance enacted, adopted, issued or promulgated by any federal, state, local or other Governmental Authority or regulatory body (including those pertaining to electrical, building, zoning, environmental and occupational safety and health requirements).

1.19 “Settlement Estimation Procedures” means a calculation based on standard utility estimation rules using algorithms developed and approved by PacifiCorp’s billing department.

1.20 “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 Generation Interconnection Agreement.

1.21 “Tariff” means the PacifiCorp FERC Electric Tariff Fifth Revised Volume No. 11 Open Access Transmission Tariff, or such updated volume as posted on PacifiCorp’s Open Access Same-Time Information System on the effective date of this Agreement.

1.22 “Transmission Provider” means the FERC-regulated or United States Department of Energy entity with whom the Facility has contracted for electric transmission at and away from the Facility to any point on, or interconnection with, the electric transmission grid; in the event Transmission Provider is PacifiCorp, PacifiCorp would be the Interconnection Provider operating in its regulated transmission function, and not as the party hereto.

1.23 “Wholesale Generation Also Serving On-Site Loads” is defined in section 2 of the WREGIS Operating Rules.

1.24 “WECC” means the Western Electricity Coordinating Council.

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

1.26 “WREGIS Certificate” or “Certificate” means “Certificate” as defined by the WREGIS Operating Rules.

1.27 “WREGIS Operating Rules” means the operating rules and requirements adopted by WREGIS, including the TOU.

1.28 General Rules of Interpretation. Unless otherwise required by the context in which any term appears, (a) the singular includes the plural and vice versa; (b) references to “Articles,” “Sections,” “Schedules,” “Annexes,” “Appendices” or “Exhibits” are to articles, sections, schedules, annexes, appendices or exhibits hereof; (c) all references to a particular entity or an electricity market price index include a reference to such entity’s or index’s successors; (d) “herein,” “hereof” and “hereunder” refer to this Agreement as a whole; (e) all accounting terms not specifically defined herein shall be construed in accordance with generally accepted accounting principles consistently applied; (f) the masculine includes the feminine and neuter and vice versa; (g) “including” means “including, without limitation” or “including, but not limited to”; (h) all references to a particular law or statute mean that law or statute as amended from time to time; and (i) the word “or” is not necessarily exclusive.

1.29 Interpretation with FERC Orders. Counterparty acknowledges and agrees that PacifiCorp must conduct its operations in a manner intended to comply with FERC Order No. 717, Standards of Conduct for Transmission Providers, which requires the functional separation of a utility’s transmission and merchant functions. Moreover, the Parties acknowledge that each of Transmission Provider’s and Interconnection Provider’s transmission function offers transmission service on its system in a manner intended to comply with FERC policies and requirements relating to the provision of open-access transmission service. Counterparty agrees to conduct itself and operate the Facility in accordance with all Requirements of Law, all requirements of all applicable Electric System Authorities, and all requirements of the Interconnection Agreement.

1.29.1 Counterparty agrees to enter into the Generation Interconnection Agreement with the Interconnection Provider. The Generation Interconnection Agreement shall be a separate and free standing contract and the terms hereof are not binding upon the Interconnection Provider or Transmission Provider, although both are express third party beneficiaries hereof.

1.29.2 Notwithstanding any other provision in this Agreement, nothing in the Generation Interconnection Agreement, nor any other agreement between Counterparty on the one hand and

Transmission Provider or Interconnection Provider on the other hand, nor any alleged event of default thereunder, shall alter or modify the Parties' rights, duties, and obligation hereunder. Likewise, nothing herein or connected with the performance by PacifiCorp hereof shall affect or impair the rights of Interconnection Provider or Transmission Provider, under the Interconnection Agreement or otherwise. This Agreement shall not be construed to create any rights between Counterparty and the Interconnection Provider or between Counterparty and the Transmission Provider.

1.29.3 Counterparty expressly recognizes that, for purposes hereof, the Interconnection Provider and Transmission Provider each shall be deemed to be a separate entity and separate contracting party from PacifiCorp whether or not the Generation Interconnection Agreement is entered into with Interconnection Provider or an affiliate thereof. Counterparty acknowledges that PacifiCorp, acting in its merchant capacity function as purchaser hereunder, has no responsibility for or control over Interconnection Provider or Transmission Provider, and is not liable for any breach of agreement or duty by Interconnection Provider or Transmission Provider. Nothing in this Agreement shall operate to diminish, nor shall this Agreement extend to, Interconnection Provider or Transmission Provider's use, retention, or disclosure of Counterparty or Facility information (including information within the scope of this Agreement) in connection with PacifiCorp operating in its transmission function, including its carrying out of its obligations and business practices as a Balancing Authority or activities undertaken pursuant to the Tariff.

## II. Term and Termination.

2.1 This Agreement shall be effective upon execution by the Parties and shall continue in effect until such time as either Party, upon providing 60 days written notice to the other Party, chooses to terminate. PacifiCorp may initiate any regulatory proceedings it deems appropriate to terminate this Agreement prior to the effectiveness of such termination. Notwithstanding the foregoing, (a) Counterparty may terminate this Agreement upon an event of default by PacifiCorp if PacifiCorp does not cure such event of default within 10 days of written notice, (b) PacifiCorp may terminate this Agreement upon an event of default by Counterparty if Counterparty does not cure such event of default within 10 days of written notice, (c) PacifiCorp may terminate this Agreement if the Facility fails to meet the requirements of Section 3.1 hereof and such failure is not cured within 30 days, and (d) either Party may terminate this Agreement immediately upon notice to the other if Counterparty or the Facility fail to comply with Section 1.29. This Agreement may also be terminated as otherwise set forth herein.

## III. QRE Services.

3.1 QRE Services. PacifiCorp will, on the terms set forth herein, serve as a QRE for the Facility so long as (a) the Facility meets the definition of Renewable, (b) is within the metered boundaries of both PacifiCorp's Balancing Authority, (c) is equipped with either: (1) Transmission Provider or Interconnection Provider (as applicable) owned and operated meters; or (2) meters that meet the Interconnection Provider's requirements and (d) meet all applicable WREGIS requirements.

3.2 Compensation to PacifiCorp. In exchange for the services performed by PacifiCorp hereunder, Counterparty shall pay PacifiCorp as follows: Counterparty shall pay PacifiCorp a one-time initial setup fee of \$280, which PacifiCorp may at its option deduct from payments due to Counterparty under the PPA and otherwise shall be payable within ten days of demand by invoice following execution of this Agreement. PacifiCorp shall charge Counterparty a monthly reporting fee of \$50 per generating unit for which PacifiCorp reports output to WREGIS, provided that PacifiCorp may, in its discretion, assess and bill for all fees due hereunder on an annual, rather than monthly, basis. PacifiCorp may at its option deduct from payments due to Counterparty under the PPA all other fees due hereunder, which shall otherwise be due within ten days of PacifiCorp's issuance of an invoice for such fees. PacifiCorp will review costs associated with this service on an annual basis, and may make necessary adjustments to the monthly reporting fee charged herein. Any change in the monthly reporting fee will become effective only after a minimum thirty (30) days prior written notice to Counterparty. In the event WREGIS, WECC, or any other entity with the ability or jurisdiction to modify the QRE reporting process requires a



change that materially increases the costs to PacifiCorp of providing QRE services, PacifiCorp may pass those costs to the Counterparty by increasing the monthly reporting fee. PacifiCorp will use best efforts to provide Counterparty with prior notice before billing Counterparty for such increased costs. The fees set forth herein relate to PacifiCorp serving as a QRE for Counterparty pursuant to the terms of this Agreement. The necessary metering is a prerequisite for this service and is not covered in the fees described above.

**3.3 Points of Metering.** The Points of Metering that PacifiCorp will use are set forth in Exhibit A. Counterparty certifies that all Points of Metering listed in Exhibit A measure data only from Facility that meet the definition of Renewable. Counterparty shall notify PacifiCorp at least thirty (30) Business Days prior to making any proposed material changes to the Points of Metering. Following such notification, the Parties will decide whether such changes are mutually acceptable. If such changes are not acceptable to PacifiCorp, PacifiCorp may terminate this Agreement.

**3.4 Expenses.** Except as otherwise provided in the Interconnection Agreement (and in such case, only vis-à-vis Interconnection Provider), Counterparty shall bear all costs and expenses, including those incurred by PacifiCorp, relating to all metering or other equipment installed to accommodate Counterparty's Facility.

**3.5 Reporting.** Counterparty hereby grants to PacifiCorp sole and exclusive permission and authority to report Data and Output to WREGIS and warrants and represents that neither Counterparty nor any other person or entity acting on behalf of Counterparty has granted, or will hereafter grant during the term hereof any similar data reporting authority or permission to any other QRE or WREGIS Account Holder or to any other party or Agent for use in WREGIS, or any other energy tracking system, for the Facility. As a precondition for PacifiCorp to be able to perform hereunder, Counterparty shall submit Counterparty's Output data to PacifiCorp by allowing PacifiCorp to collect such data, at the Points of Metering, and report such data in the manner set forth herein.

**3.5.1 Monthly Generation Extract File.** PacifiCorp shall submit a Monthly Generation Extract File to WREGIS on Counterparty's behalf, which will conform to the characteristics and data requirements set forth in the WREGIS Interface Control Document.

**3.5.2 Reporting Cycle.** PacifiCorp shall submit the Monthly Generation Extract File to WREGIS no later than sixty days following the end date of the output being reported.

**3.5.3 Verification.** Should PacifiCorp choose at its option to operate and make available a Metering External Webpage, PacifiCorp may in its reasonably exercised discretion grant Counterparty access for Counterparty to verify such information as prescribed by PacifiCorp from time to time, and to timely notify PacifiCorp in writing of any errors Counterparty detects.

**3.5.4 Adjustments.** After PacifiCorp submits the Monthly Generation Extract File to WREGIS, any information contained in the Monthly Generation Extract File shall be final for purposes of WREGIS reporting, subject only to the adjustment procedures set forth in the WREGIS Operating Rules, which shall be Counterparty's responsibility to implement if necessary.

**3.6 Obligations of Counterparty.** Counterparty shall report and provide to PacifiCorp accurate and complete generation Data and Output information for the Facility. Counterparty shall send the Data and other Output Information in a format and in compliance with any protocols which PacifiCorp may specify to Counterparty. Counterparty has a continuing duty to immediately notify PacifiCorp, if and when any generation Data or Output information has been sent in error or ceases to be truthful, accurate, or complete and to supply the corrected data as soon as practical, but not later than five (5) Business Days from the date Counterparty discovers that discrepancy in the Data or Output information.

**3.7 WREGIS Fees.** Counterparty is solely responsible for the payment directly to WREGIS of any and all WREGIS fees and costs that are required to register Counterparty's Facility and, to the

extent the Generator Owner is a WREGIS Account Holder, Counterparty is responsible for the payment directly to WREGIS of all other WREGIS fees incident to the reporting of Generator Data and Output to WREGIS. Counterparty acknowledges and agrees that PacifiCorp shall have no obligation to advance or make payment of WREGIS fees or costs on Counterparty's behalf. Upon request by PacifiCorp made if PacifiCorp has received such a request from WREGIS or any regulator or third party, Counterparty shall provide PacifiCorp with evidence of payment of WREGIS fees and costs; failure to provide such information to PacifiCorp, upon request, shall constitute an event of default under this Agreement.

**3.8 WREGIS Accounts.** Counterparty will be solely responsible to make arrangements and registrations and for entering into any such agreements that are necessary to establish transfer of Certificates directly to proper Accounts or Subaccounts of Counterparty. Counterparty agrees that such arrangements shall preclude the need for PacifiCorp to act as custodian of such Certificates or to be responsible in any way to hold such Certificates in any Account or Subaccount of PacifiCorp or bear any responsibility, possession, obligation, or risk of loss with respect to Certificates created, held, or owned, with respect to the Facility. Counterparty acknowledges that, pursuant to section 11 of the WREGIS TOU, any generation data that PacifiCorp, acting as a QRE, provides to WREGIS shall reside in WREGIS and Counterparty will have no control over such data's use other than that provided for under the WREGIS TOU.

**3.9 Obligations of PacifiCorp.** PacifiCorp shall specify for Counterparty the protocols, reporting frequency, data file formats, and communication protocols for reporting generating Data, or Output, as necessary. PacifiCorp shall timely report to WREGIS Counterparty Data and/or Output information as specified in the most current WREGIS Interface Control Document (ICD). PacifiCorp shall not use or disclose Counterparty generation Data for any other purpose than reporting the Data to WREGIS, except as may be required by law, the Public Utility Commission of Oregon, any other state, federal, municipal or other regulator or governmental authority with jurisdiction over PacifiCorp or any of its assets, or a court of competent jurisdiction or as required under the terms of an existing agreement between the Parties. PacifiCorp shall not use Generator Owner generation Data for any other purpose. Notwithstanding the foregoing, PacifiCorp shall not be responsible for handling, account administration, transfer, evidence of, or any determination of Counterparty Certificate ownership or any other obligations for Certificates of Counterparty with regard to Certificates; and Counterparty shall bear all responsibility for such handling, account administration, evidence of, or any determination of Counterparty Certificate ownership and all other obligations pertaining to creation and ownership of such Certificates.

### **3.10 Measurement.**

**3.10.1 Meter Data.** Counterparty authorizes PacifiCorp's metering services organization to provide Counterparty's meter data directly to WREGIS in the form of the Monthly Generation Extract File. Counterparty authorizes PacifiCorp to gather data from the Points of Metering listed in Exhibit A. All such data is considered data which Counterparty has created and submitted to PacifiCorp, notwithstanding that PacifiCorp, rather than Counterparty will gather it.

**3.10.2 Wholesale Generation Also Serving On-Site Loads.** If Counterparty has any Wholesale Generation Also Serving On-Site Loads (as defined in Article One above), such Facility will need to have the on-site load generation metered (and registered) separately from the generation that is supplied to the grid, in accordance with the WREGIS Operating Rules. Otherwise, PacifiCorp will not report any data from such Facility. If such Facility exist, they must be specified in Exhibit A.

**3.10.3 Estimates.** When meter readings are not available due to meter hardware failure or data that is determined to be invalid due to meter malfunction or calibration or configuration error, to the extent deemed by PacifiCorp to be appropriate and permitted pursuant to WREGIS TOU, PacifiCorp will, if possible, rely on readings from redundant meters whether such meters are PacifiCorp owned or not. If readings from redundant meters are not possible, PacifiCorp will estimate and report meter data according to PacifiCorp's Settlement Estimation Procedures.

3.10.4 Responsibility. Counterparty is solely responsible for the data created and submitted to PacifiCorp, acting as a QRE, to forward to WREGIS.

3.11 Regulatory Requirements. PacifiCorp may release information provided by Counterparty hereunder, or gathered by PacifiCorp in connection herewith, to comply with any regulatory requirements applicable to PacifiCorp or if requested by a PacifiCorp regulator or if required by any other federal law or court order. Counterparty waives all applicable provisions of the Tariff which require PacifiCorp to hold confidential information with respect to the Generator Owner and the Facility, to the extent necessary for PacifiCorp to report, as a QRE, generation Data and Output regarding the Generation Unit(s) and to carry out PacifiCorp's obligations under this Agreement. This provision shall survive any termination of this Agreement.

3.12 Grant by Counterparty. Counterparty hereby grants to, permits, and authorizes PacifiCorp the following:

3.12.1 PacifiCorp is hereby authorized to communicate and transact with WREGIS as Counterparty's sole and exclusive reporting source of generation data for the Facility, and WREGIS is hereby authorized to communicate and transact directly with PacifiCorp regarding any generation data issues for the Facility. PacifiCorp is hereby authorized to act on behalf of Counterparty, but only to the extent that PacifiCorp has lawful, contractual access to WREGIS.

3.12.2 PacifiCorp is hereby authorized to provide WREGIS with all generation data for the Facility that WREGIS requires, including, but not limited to, data required for preparation of required reports and billing.

3.12.3 PacifiCorp is authorized to undertake all actions which are reasonable and necessary to carry out the obligations set forth in the subsections above.

3.12.4 Counterparty retains all other rights and responsibilities and all other obligations to WREGIS.

#### IV. INDEMNITY.

4.1 INDEMNITY. TO THE EXTENT PERMITTED BY REQUIREMENTS OF LAW, COUNTERPARTY HEREBY INDEMNIFIES AND AGREES TO HOLD PACIFICORP, ITS AFFILIATES, AND EACH OF ITS AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, AND REPRESENTATIVES (COLLECTIVELY, THE "PACIFICORP INDEMNITEES") HARMLESS AGAINST ANY AND ALL LOSSES, FINES, PENALTIES, CLAIMS (INCLUDING THIRD PARTY CLAIMS), DEMANDS, DAMAGES, LIABILITIES, ACTIONS OR SUITS OF ANY NATURE WHATSOEVER (INCLUDING LEGAL COSTS AND ATTORNEY'S FEES, BOTH AT TRIAL AND ON APPEAL, WHETHER OR NOT SUIT IS BROUGHT) (COLLECTIVELY, "LIABILITIES") THAT ARE IN ANY WAY ASSOCIATED WITH PACIFICORP'S PERFORMANCE OR FAILURE TO PERFORM HEREUNDER. THIS INCLUDES LIABILITY ARISING FROM: THE DATA CONTAINED IN THE MONTHLY GENERATION EXTRACT FILE, OR ANY OTHER FINANCIAL INJURY, OR DAMAGE TO PERSONS OR PROPERTY. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

4.2 WAIVER OF CAUSES OF ACTION AND CLAIMS FOR DAMAGES. WITHOUT LIMITING THE GENERALITY OF SECTION 4.1 ABOVE, COUNTERPARTY HEREBY WAIVES ANY AND ALL CAUSES OF ACTION ARISING UNDER OR IN RESPECT TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR ANY OTHER LEGAL OR EQUITABLE THEORY (INCLUDING STRICT LIABILITY) AGAINST PACIFICORP OR ANY PACIFICORP INDEMNITEE. IN NO EVENT SHALL PACIFICORP OR ANY PACIFICORP INDEMNITEE BE LIABLE TO COUNTERPARTY ITS BOARD OF DIRECTORS, EMPLOYEES, AGENTS, OR REPRESENTATIVES FOR ANY DEMANDS, DIRECT COSTS, LOST OR PROSPECTIVE PROFITS OR ANY OTHER LIABILITIES OR EXPENSES, WHETHER SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, INCIDENTAL, OR INDIRECT IN

NATURE, THAT ARE IN ANY WAY ASSOCIATED WITH PACIFICORP'S PERFORMANCE OF THE QRE FUNCTION OR OTHERWISE UNDER OR IN RESPECT OF THIS AGREEMENT.

4.3 **INDEMNITY FOR COUNTERPARTY ACTIONS.** WITHOUT LIMITING THE GENERALITY OF SECTION 4.1 ABOVE, COUNTERPARTY SHALL RELEASE, INDEMNIFY AND HOLD PACIFICORP AND ALL PACIFICORP INDEMNITEES HARMLESS AGAINST AND FROM ANY AND ALL LIABILITIES RESULTING FROM, OR ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THE PERFORMANCE BY COUNTERPARTY OF ITS OBLIGATIONS HEREUNDER, OR RELATING TO THE FACILITY, FOR OR ON ACCOUNT OF (I) INJURY, BODILY OR OTHERWISE, TO, OR DEATH OF, OR (II) FOR DAMAGE TO, OR DESTRUCTION OR ECONOMIC LOSS OF PROPERTY OF, ANY PERSON OR ENTITY, EXCEPTING ONLY TO THE EXTENT SUCH LIABILITIES AS MAY BE CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY PACIFICORP INDEMNITEE.

4.4 **NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT,** COUNTERPARTY ASSUMES FULL RESPONSIBILITY AND RISK OF LOSS RESULTING FROM (1) THE FAILURE TO SEND DATA IN A FORMAT SPECIFIED BY PACIFICORP, (2) THE FAILURE TO USE PROTOCOLS SPECIFIED BY PACIFICORP OR (3) THE SENDING OF ERRONEOUS, UNTRUTHFUL, INACCURATE, AND/OR INCOMPLETE GENERATING DATA TO PACIFICORP OR THE SENDING OF ERRONEOUS, UNTRUTHFUL, INACCURATE, AND/OR INCOMPLETE DATA BY PACIFICORP TO WREGIS. IN NO EVENT SHALL PACIFICORP BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, OR OTHER INDIRECT LOSS OR DAMAGES RESULTING FROM ANY BREACH OF THIS AGREEMENT, WHETHER CAUSED BY THE NEGLIGENCE OR INTENTIONAL ACTIONS OF PACIFICORP (AND/OR ITS CONTRACTORS, AGENTS, AND EMPLOYEES), REGARDLESS OF WHETHER SUCH CLAIM FOR DAMAGES IS BASED IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE. IN NO EVENT SHALL PACIFICORP BE LIABLE FOR ANY LOSS OR HARM SUFFERED BY COUNTERPARTY OR ANY THIRD PARTY DUE TO ANY ACTION OR INACTION BY PACIFICORP TAKEN HEREUNDER THAT CAUSES A FACILITY TO LOSE ANY CREDENTIALS, REGISTRATION OR QUALIFICATION UNDER THE RENEWABLE PORTFOLIO STANDARD OR SIMILAR LAW OF ANY STATE OR OTHER JURISDICTION.

4.5 **PACIFICORP WILL NOT BE RESPONSIBLE FOR ANY DAMAGES RESULTING FROM ECONOMIC LOSS, LOSS OF USE, LOSS OF DATA, LOSS OF BUSINESS, LOSS OF PROFIT, LOSS OF PRODUCTION TAX CREDITS, LOSS OF SAVINGS OR REVENUE, LOSS OF GOODWILL, THE CLAIMS OF THIRD PARTIES (INCLUDING CUSTOMERS AND SHAREHOLDERS OR OTHER EQUITY OWNERS), PERSONAL INJURIES OR PROPERTY DAMAGES SUSTAINED BY THE COUNTERPARTY OR ANY THIRD PARTIES, EVEN IF PACIFICORP HAS BEEN NOTIFIED BY COUNTERPARTY (OR BY ANY THIRD PARTY) OF SUCH DAMAGES.**

4.6 **PACIFICORP DISCLAIMS ANY LIABILITY FOR AND COUNTERPARTY WAIVES ANY CLAIM FOR LOSS OR DAMAGE RESULTING FROM ERRORS, OMISSIONS, OR OTHER INACCURACIES IN ANY PART OF WREGIS OR THE REPORTS, CERTIFICATES OR OTHER INFORMATION COMPILED OR PRODUCED BY AND FROM OR INPUT INTO WREGIS USING COUNTERPARTY-SUPPLIED GENERATION DATA, WHETHER OR NOT SUCH ERRORS, OMISSIONS OR INACCURACIES ARE DUE TO ERRONEOUS, UNTRUTHFUL, INCOMPLETE, OR INACCURATE INFORMATION INPUT BY PACIFICORP INTO WREGIS.**

4.7 **COUNTERPARTY HEREBY RELEASES PACIFICORP AND PACIFICORP INDEMNITEES FROM ANY AND ALL LIABILITY WITH RESPECT TO DAMAGES OR INJURIES INCURRED BY GENERATOR OWNER AS RELATES TO THE FOREGOING, EXCLUDING ANY ARISING AS A RESULT OF TORTIOUS AND INTENTIONALLY KNOWING OR RECKLESS CONDUCT BY PACIFICORP.**

**4.8 COUNTERPARTY ACKNOWLEDGES AND AGREES THAT, IN THE EVENT OF BREACH OF THIS CONTRACT OR ANY OTHER ACTION RESULTING IN LOSS OR POTENTIAL LOSS OR DAMAGE TO COUNTERPARTY, COUNTERPARTY'S SOLE RECOURSE IS TERMINATION OF THIS AGREEMENT.**

**4.9 WITHOUT LIMITING THE GENERALITY OF SECTION 4.1 ABOVE, COUNTERPARTY AGREES TO DEFEND, INDEMNIFY, AND HOLD PACIFICORP AND PACIFICORP INDEMNITEES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS (INCLUDING THIRD-PARTY CLAIMS); CAUSES OF ACTION, WHETHER IN CONTRACT, TORT, OR ANY OTHER LEGAL THEORY (INCLUDING STRICT LIABILITY); COSTS AND EXPENSES AND OTHER LIABILITIES OF ANY NATURE WHATSOEVER, WHENEVER ARISING, ARISING OUT OF, RESULTING FROM, ATTRIBUTABLE TO, OR RELATED TO COUNTERPARTY GENERATION DATA OR OUTPUT, INCLUDING: ANY INACCURACY, ERROR, OR DELAY IN OR OMISSION OF (I) ANY DATA, INFORMATION, OR SERVICE, OR (II) THE TRANSMISSION OR DELIVERY OF ANY DATA, INFORMATION, OR SERVICE; ANY INTERRUPTION OF ANY SUCH DATA, OUTPUT, INFORMATION, OR SERVICE (WHETHER OR NOT CAUSED BY PACIFICORP); OR ANY FINANCIAL, BUSINESS, COMMERCIAL, OR OTHER JUDGMENT, DECISION, ACT, OR OMISSION MADE BY ANY PERSON OR ENTITY BASED UPON OR RELATED TO THE DATA, OUTPUT, INFORMATION OR SERVICE.**

**4.10 Interconnection.** Counterparty shall have no claims hereunder against PacifiCorp, acting in its merchant function capacity, with respect to any requirements imposed by or damages caused by (or allegedly caused by) acts or omissions of the Transmission Provider or Interconnection Provider, in connection with the Generation Interconnection Agreement or otherwise. Counterparty shall defend, indemnify and hold PacifiCorp harmless against any liability arising due to Counterparty's performance or failure to perform under the Generation Interconnection Agreement. Counterparty's failure to obtain, or perform under, the Generation Interconnection Agreement, or its other contracts and obligations to, Transmission Provider or Interconnection Provider is not a Force Majeure.

**4.11** This Article IV shall survive any termination of this Agreement, whether such termination is by PacifiCorp or Counterparty, and whether or not such termination is on account of a default.

**V. Further Counterparty Obligations.**

**5.1 No Sale.** Nothing herein constitutes a sale or purchase of energy or renewable energy certificates to or by PacifiCorp.

**5.2 Tax Benefits.** Counterparty shall bear all risks, financial and otherwise throughout the Term, associated with Counterparty's or the Facility's eligibility to receive any tax benefits, including production or investment tax credits or accelerated depreciation.

**5.3 Further Assurances.** At PacifiCorp's request, the Parties shall execute such documents and instruments as may be reasonably required to effect the essential intent and purposes hereof.

**5.4 Station Service.** Counterparty shall be responsible for arranging and obtaining, at its sole risk and expense, any station service required by the Facility.

**5.5 Costs of Ownership and Operation.** Without limiting the generality of any other provision hereof, Counterparty shall be solely responsible for paying when due (a) all costs of owning and operating the Facility in compliance with existing and future Requirements of Law and the terms and conditions hereof, and (b) all taxes and charges (however characterized) now existing or hereinafter imposed on or with respect to the Facility, its operation, or on or with respect to emissions or other environmental impacts of the Facility, including any such tax or charge (however characterized) to the extent payable by a generator of such energy or renewable energy certificates.



5.6 Coordination with System. Counterparty shall be responsible for the coordination and synchronization of the Facility and the Interconnection Facilities with the System, and shall be solely responsible for (and shall defend and hold PacifiCorp harmless against) any damage that may occur as a direct result of Counterparty's breach of the Generation Interconnection Agreement.

5.7 Data Request. Counterparty shall, promptly upon written request from PacifiCorp, provide PacifiCorp with data reasonably required for information requests from any Governmental Authorities, state or federal agency intervener or any other party achieving intervenor status in any PacifiCorp rate proceeding or other proceeding before any governmental authority. Counterparty shall use best efforts to provide this information to PacifiCorp sufficiently in advance to enable PacifiCorp to review it and meet any submission deadlines.

5.8 Additional Information. Counterparty shall provide to PacifiCorp such other information respecting Counterparty or the Facility as PacifiCorp may, from time to time, reasonably request.

5.9 No Dedication. Nothing herein shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party hereto. No undertaking by one Party to the other under any provision hereof shall constitute the dedication of PacifiCorp's facilities or any portion thereof to Counterparty or to the public, nor affect the status of PacifiCorp as an independent public utility corporation or Counterparty as an independent individual or entity.

5.10 Required Policies and Coverages. Without limiting any liabilities or any other obligations of Counterparty hereunder, Counterparty shall secure and continuously carry with an insurance company or companies the insurance coverage specified in the Generation Interconnection Agreement.

## VI. Representations and Warranties.

6.1 Mutual Representations and Warranties. Each Party represents and warrants to the other that: (i) it is duly organized and validly existing under the laws of the jurisdiction of its incorporation or organization; (ii) it has the corporate, governmental and other legal capacity and authority to enter hereinto and to perform its obligations hereunder; (iii) such execution and performance do not violate or conflict with any law, order or agreement applicable to it; (iv) it has all governmental and other authorizations that are required to have been obtained or submitted by it with respect hereto, and they are in full force and effect; (v) its obligations hereunder are valid, binding and enforceable in accordance with their terms (subject to bankruptcy or similar laws affecting creditors' rights generally); and (vi) no Event of Default, or event which with notice and/or lapse of time would constitute such an Event of Default, has occurred and is continuing or would occur as a result of its entering into or performing its obligations hereunder.

6.2 Representations and Warranties of Counterparty. Counterparty hereby represents and warrants to PacifiCorp: (i) it is not relying upon any representations of PacifiCorp other than those expressly set forth herein; (ii) it has entered hereinto with a full understanding of the material terms and risks of the same, and it is capable of assuming those risks; (iii) it has made its trading and investment decisions based upon its own judgment and any advice from such advisors as it has deemed necessary and not in reliance upon any view expressed by PacifiCorp; (iv) it has not received from PacifiCorp any assurances or promises regarding any financial results or benefits hereunder; (v) service hereunder is not a utility service within the meaning of Section 466 of the United States Bankruptcy Code; and (vi) Counterparty holds legal title to the Facility or otherwise holds the legal right to cause the Facility to enter into this Agreement.

## VII. Financial Responsibility.

7.1 Adequate Assurances. Without limiting PacifiCorp's rights under Article VIII hereof, if Counterparty has failed to make a timely payment hereunder, and PacifiCorp has reasonable grounds for insecurity regarding the performance of any obligation of Counterparty hereunder (whether or not then due), PacifiCorp may demand Adequate Assurances of Performance. "Adequate Assurances of Performance" means sufficient security in the form, amount, by an issuer or guarantor, and for the term reasonably acceptable to PacifiCorp, including, but not limited to, cash, a standby irrevocable letter of credit, a prepayment, a security interest in government securities, an asset or a performance bond or guaranty. Such Adequate Assurances of Performance shall be provided within three business days after a written demand is made by PacifiCorp.

## VIII. Events of Default; Remedies.

8.1 Event of Default. "Event of Default" means, with respect to a Party (the "Defaulting Party"):

8.1.1 the failure to render when due any payment or performance hereunder, if such failure is not remedied within five days after written notice;

8.1.2 the failure to timely provide adequate assurances required pursuant to Article VII hereof;

8.1.3 any such Party's representation or warranty proves to have been incorrect or misleading in any material respect when made;

8.1.4 the failure to perform any other covenant set forth herein if such failure is not remedied within five days after written notice;

8.1.5 its bankruptcy, if adequate assurances acceptable to PacifiCorp and approved by the Bankruptcy Court are not provided;

8.1.6 the expiration or termination of any credit support of Counterparty's obligations hereunder (other than in accordance with its terms) prior to the satisfaction of all obligations of Counterparty without the written consent of PacifiCorp; or

8.1.7 In the case of Counterparty:

8.1.7.1 Counterparty fails to report generation Data or Output information to PacifiCorp for the Facility or Counterparty fails to send the data in a format and use the protocols specified by PacifiCorp as determined by PacifiCorp to be required to meet the requirements of the WREGIS Operating Rules;

8.1.7.2 Counterparty is delinquent in payment to WREGIS of any WREGIS fees for registration or maintenance of Accounts or Subaccounts, which payment impairs the ability of PacifiCorp to report Generator Data, Output, or other information to WREGIS regarding the Facility, which delinquency continues for a period of thirty (30) days;

8.1.7.3 Counterparty fails to comply with a request by PacifiCorp to provide evidence of payment of WREGIS fees pertaining to the Facility; or

8.1.7.4 Counterparty knowingly or intentionally falsifies or misrepresents any Data, Output information, or other information required by WREGIS.

8.2 Remedies Upon Event of Default. In the Event of Default by a Party and for so long as the Event of Default is continuing, the non-defaulting Party (the "Performing Party") shall have the right to do any or all of the following: (1) upon two business days' written notice to the Defaulting Party, terminate



this Agreement; (2) withhold any payments or performance due in respect of this Agreement; and (3) exercise such other remedies as may be available at law or in equity or as otherwise provided for herein, to the extent such remedies have not been otherwise waived or limited pursuant to the terms hereof.

8.3 Setoff. If an Event of Default occurs, the Performing Party may, at its election, set off any or all amounts which the Defaulting Party owes to it or any Affiliate of the Performing Party (whether under this Agreement or otherwise and whether or not then due) against any or all amounts which it or any Affiliate of the Performing Party owes to the Defaulting Party (whether under this Agreement or otherwise and whether or not then due).

8.4 Payment of Damages. Any amounts due on account of default shall be paid by the close of business on the next business day following the Defaulting Party's receipt of the Performing Party's written termination notice setting forth the termination payment due.

8.5 Limitation of Liability. **THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED HEREIN SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGE IS PROVIDED, SUCH REMEDY OR MEASURE SHALL BE THE SOLE AND EXCLUSIVE REMEDY THEREFOR. LIABILITY THAT HAS NOT BEEN OTHERWISE EXCLUDED PURSUANT TO THE TERMS HEREOF SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY AS THE SOLE AND EXCLUSIVE REMEDY. EXCEPT AS OTHERWISE SPECIFICALLY SET FORTH HEREIN, NO PARTY SHALL BE REQUIRED TO PAY OR BE LIABLE FOR SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, LOST PROFIT OR BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT, CONTRACT OR OTHERWISE.**

8.6 Survival. This Article survives the expiration or termination hereof.

## IX. Force Majeure.

9.1 Except with regard to a Party's obligation to make payments hereunder, in the event either Party hereto is rendered unable, wholly or in part, by Force Majeure to carry out its obligations with respect hereto, then upon such Party's (the "Claiming Party") giving notice and full particulars of such Force Majeure as soon as reasonably possible after the occurrence of the cause relied upon, such notice to be confirmed in writing or by facsimile to the other Party, then the obligations of the Claiming Party shall, to the extent they are affected by such Force Majeure, be suspended during the continuance of said inability, but for no longer period, and the Claiming Party shall not be liable to the other Party for, or on account of, any loss, damage, injury or expense resulting from, or arising out of such event of Force Majeure. The Party receiving such notice of Force Majeure shall have until the end of the Business Day following such receipt to notify the Claiming Party that it objects to or disputes the existence of an event of Force Majeure. "Force Majeure" means an event or circumstance which prevents one Party from performing its obligations hereunder, which event or circumstance was not anticipated, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Counterparty's failure to obtain, or perform under, the Generation Interconnection Agreement, or its other contracts and obligations to, Transmission Provider or Interconnection Provider is not a Force Majeure.

9.2 Force Majeure Does Not Affect Other Obligations. No obligations of either Party that arose before the Force Majeure causing the suspension of performance or that arise after the cessation of the Force Majeure shall be excused by the Force Majeure.

9.3 Strikes. Notwithstanding any other provision hereof, 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.

## X. Miscellaneous.

10.1 Choice of Law. This Agreement shall be interpreted and enforced in accordance with the laws of the state of Oregon, excluding any choice of law rules that may direct the application of the laws of another jurisdiction.

10.2 Restriction on Assignments. Neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Any purported assignment in violation hereof shall be void ab initio. This Agreement inures to the benefit of and is binding upon the Parties and their respective successors and permitted assigns.

10.3 Notices. All notices, requests, statements or payments shall be made to the addresses set out on the Notices Exhibit. Notices required to be in writing shall be delivered by letter, facsimile or other documentary form. Notice by facsimile or hand delivery shall be deemed to have been given when received or hand delivered. Notice by overnight mail or courier shall be deemed to have been given on the date and time evidenced by the delivery receipt. The Parties may change any of the persons to whom notices are addressed, or their addresses, by providing written notice in accordance with this Section.

10.4 Entire Agreement; Counterparts. This Agreement constitutes the entire agreement between the Parties with respect to its subject matter. This Agreement may not be amended, changed, modified, or altered unless such amendment, change, modification, or alteration is in writing and signed by both Parties. This Agreement may be executed in counterparts, including by telefacsimile transmission, each of which is an original and all of which taken together constitute one and the same original instrument. This Agreement completely and fully supersedes all other prior understandings or agreements, both written and oral, between the Parties relating to the subject matter hereof. If any provision of this Agreement is determined to be invalid, void or unenforceable by any court of competent jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Agreement, provided the basic purposes of this Agreement and the benefits to the Parties are not substantially impaired.

10.5 No Waiver. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default, nor shall any delay by a Party in the exercise of any right under this Agreement be considered as a waiver or relinquishment thereof.

10.6 Jurisdiction. Any judicial action arising out of, resulting from or in any way relating to this Agreement shall be brought only in a state or federal court of Multnomah County, Oregon. In the event such judicial proceedings are instituted by either Party, the prevailing Party shall be entitled to award of its costs and attorneys' fees incurred in connection with such proceedings.

10.7 Jury Trial Waiver. **THE PARTIES EACH HEREBY IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING HERETO, OR THE TRANSACTIONS CONTEMPLATED HEREBY. 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.**

10.8 No Third Party Beneficiaries. With the exception of Transmission Provider and Interconnection Provider, who are express third party beneficiaries hereof, this Agreement confers no rights whatsoever upon any person other than the Parties and shall not create, or be interpreted as creating, any standard of care, duty or liability to any person not a Party hereto.

10.9 Relationship of the Parties. Nothing contained herein shall be construed to create an association, joint venture, trust, or partnership, or impose a trust or partnership covenant, obligation, or

liability on or with regard to any one or more of the Parties. Each Party shall be individually responsible for its own covenants, obligations, and liabilities under this Agreement.

10.10 Survival. This Article survives the expiration or termination hereof.

*[signature page follows]*

IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized representatives as of the date last below written.

PacifiCorp	<COUNTERPARTY>
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Exhibit A  
to Qualified Reporting Entity Services Agreement

**Facility and Generation Data**

For Facility enter the following information:

Facility Name and Address or Location:

[\_\_\_\_\_]

Meter Number (Device ID):

[\_\_\_\_\_]

Facility's WREGIS Generator ID:

[\_\_\_\_\_]

EIA or QF ID#:

[\_\_\_\_\_]

One-line diagram that includes description of meter locations at the facility – voltage and location:

[\_\_\_\_\_]