

FORM OF
POWER PURCHASE AGREEMENT

BETWEEN

AND

PACIFICORP

[QUALIFYING FACILITIES IN EXCESS OF 1000 KILOWATT NET OUTPUT]

THIS AGREEMENT, entered into this ____ day of _____, 200_, is between _____, "Seller" and PacifiCorp ("Parties").

RECITALS

Seller intends to construct, own, operate and maintain a _____ facility for the generation of electric power located in [township/range], _____ County, _____ with a Nameplate Capacity Rating of _____-kilowatt (kW) ("Facility"); and

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

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

Seller shall sell and PacifiCorp shall purchase the Net Output from the Facility in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, the Parties mutually agree as follows:

SECTION 1: DEFINITIONS

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

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

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

1.3 "Commercial Operation Date" means the date that the Facility is deemed by PacifiCorp in its reasonable judgment to be fully operational and reliable which shall require, among other things, that all of the following events have occurred:

1.3.1 PacifiCorp has received a certificate addressed to PacifiCorp from a Licensed Professional Engineer stating that the Facility is able to generate electric power reliably in amounts required by this Agreement and in accordance with all other terms and conditions of this Agreement;

1.3.2 Start-Up Testing of the Facility has been completed in accordance with Section 1.23;

1.3.3 After PacifiCorp has received notice of completion of Start-Up Testing, and PacifiCorp has endorsed a certificate addressed to PacifiCorp from a Licensed Professional Engineer stating that, using the fuel type and composition specified in this Agreement, the Facility has operated for testing purposes under this Agreement uninterrupted for a period of _____ () consecutive days at a rate of at least _____ kW based upon any sixty (60) minute period for the entire testing period. The Facility must provide five (5) working days' written notice to PacifiCorp prior to the start of the initial testing period. If the operation of the Facility is interrupted during this initial testing period or any subsequent testing period, the Facility shall start a new consecutive _____ () day testing period and provide PacifiCorp forty-eight (48) hour written notice prior to the start of such testing period;

1.3.4 PacifiCorp has received a certificate addressed to PacifiCorp from a Licensed Professional Engineer stating that, in accordance with the Generation Interconnection Agreement, all required interconnection facilities have been constructed, all required interconnection tests have been completed and the Facility is physically interconnected with PacifiCorp's electric system;

1.3.5 PacifiCorp has received a certificate addressed to PacifiCorp from a Licensed Professional Engineer stating that Seller has obtained all Required Facility Documents and if requested by PacifiCorp, in writing, has provided copies of any or all such requested Required Facility Documents;

1.3.6 PacifiCorp has issued a written certificate to Seller stating that PacifiCorp has received, if requested by PacifiCorp in writing by _____, 200__, any or all Facility statements, drawings, plans, specifications, policies, and other documents required by this Agreement;

1.3.7 PacifiCorp has received a certificate addressed to PacifiCorp from Seller's primary construction contractor stating that the Facility has been turned over to Seller for permanent operation and maintenance and that the primary construction contractor owes no further construction-related obligations to Seller; and

1.3.8 PacifiCorp has provided to Seller its determination that Seller satisfies the Credit Requirements; provided, such determination by PacifiCorp shall not be unreasonably withheld or unreasonably delayed.

1.4 "Commission" means the Public Service Commission of Utah.

1.5 "Contract Price" means the applicable price for capacity or energy, or both capacity and energy, stated in Section 5.1.

1.6 "Contract Year" means a twelve (12) month period commencing at 00:00 hours on January 1 and ending on 24:00 hours on December 31.

1.7 "Credit Requirements" means Seller meets one or both of the following requirements: **(i)** Seller maintains a senior unsecured debt rating from Standard & Poor's of BBB or better, or **(ii)** Seller posts security pursuant to Section 8.2.

1.8 "Delay Liquidated Damages" shall be those damages payable to PacifiCorp due to Seller's failure to meet the Scheduled Commercial Operation Date, as specified in Section 2.3.

1.9 "Facility" means Seller's

facility as described in Exhibit A of this Agreement.

1.10 "Generation Interconnection Agreement" means the generation interconnection agreement to be entered into separately between Seller and PacifiCorp's transmission or distribution department, as applicable, providing for the construction and operation of the interconnection facilities at the Point of Delivery.

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

nexus with the Seller, so long as such engineer has no other economic relationship, association or nexus with the Seller.

1.12 “Material Adverse Change” shall mean, with respect to the Seller, if the Seller, in the reasonable opinion of PacifiCorp, has experienced a material adverse change in ability to fulfill its obligations under this Agreement, including, but not limited to, any such change that results in its inability to satisfy the Credit Requirements.

1.13 “Nameplate Capacity Rating” means the maximum capacity of the Facility, expressed in kW, when operated consistent with the manufacturer’s recommended power factor and operating parameters, as set forth in Exhibit A.

1.14 “Net Dependable Capacity” means the maximum capacity the Facility can sustain over a specified period modified for seasonal limitations and reduced by the capacity required for station service or auxiliaries. For purposes of this Agreement, Net Dependable Capacity shall be _____ kW.

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

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

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

1.18 "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.

1.19 “Replacement Price” means the price at which PacifiCorp, acting in a commercially reasonable manner, purchases for delivery at the Point of Delivery a replacement for any energy or capacity required but not delivered by Seller, plus (i) costs reasonably incurred by PacifiCorp in purchasing such replacement and (ii) additional

transmission charges, if any, reasonably incurred by PacifiCorp to the Point of Delivery, or absent a purchase, the market price at the Point of Delivery for such energy or capacity not delivered, as determined by PacifiCorp in a commercially reasonable manner.

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

1.21 "Scheduled Commercial Operation Date" means _____, 200__.

1.22 "Scheduled Maintenance Periods" means those times, as reflected in Exhibit D, during which the Facility is shut down for routine maintenance with the advance notice to PacifiCorp as provided in Section 6.2.

1.23 "Start-Up Testing" means the completion of required factory and start-up tests as set forth in Exhibit E hereto.

SECTION 2: TERM; COMMERCIAL OPERATION DATE

2.1 This Agreement shall become effective after execution by both Parties and after approval by the Commission ("Effective Date"); provided, however, this Agreement shall not become effective until the Commission has determined that the prices to be paid for energy and capacity are just and reasonable, in the public interest, and that the costs incurred by PacifiCorp for purchases of capacity and energy from Seller are legitimate expenses, all of which the Commission will allow PacifiCorp to recover in rates in Utah in the event other jurisdictions deny recovery of their proportionate share of said expenses.

2.2 Time is of the essence of this Agreement, and Seller's ability to meet certain requirements prior to the Commercial Operation Date and to deliver energy and capacity by the Scheduled Commercial Operation Date is critically important. Therefore,

2.2.1 By _____, Seller shall provide Project Development Security as described in Section 8.1;

2.2.2 By _____, Seller shall demonstrate to PacifiCorp's reasonable satisfaction that Seller has confirmed the availability of and the means for obtaining fuel or other sources of motive energy sufficient to allow the Facility to generate the average annual Net Metered Output of _____ kWh in each Contract Year for the full term of this Agreement;

2.2.3 By _____, Seller shall obtain and provide to PacifiCorp copies of all governmental permits and authorizations necessary for construction of the Facility;

2.2.4 By _____, Seller shall provide to PacifiCorp written evidence acceptable to PacifiCorp that Seller has obtained construction financing for the Facility (or alternatively permanent financing subject only to construction of the Facility and Seller's execution of the lender's loan documents);

2.2.5 By _____, Seller, in accordance with Section 4.3, shall provide PacifiCorp with an As-built Supplement acceptable to PacifiCorp;

2.2.6 By _____, Seller shall provide Default Security required under Section 8.2 of this Agreement;

2.2.7 By _____, Seller shall begin deliveries of Net Output for purposes of initiating Start-Up Testing; and

2.2.8 By _____, Seller shall have completed all requirements under Section 1.3 and established the Commercial Operation Date.

2.3 Seller shall cause the Facility to achieve the Commercial Operation Date on or before the Scheduled Commercial Operation Date. If the Commercial Operation Date occurs _____ or more days after the Scheduled Commercial Operation Date, Seller shall be liable to pay PacifiCorp delay damages equal to \$ _____ per day or portion of day the Commercial Operation Date occurs after such date following the Scheduled Commercial Operation Date, up to a total of _____ days **[TO BE CONSISTENT WITH 11.1.5]** ("Delay Liquidated Damages"). The parties agree that the damages PacifiCorp would incur due to delay in achieving the Commercial Operation Date on or before the Scheduled Commercial Operation Date would be difficult or impossible to predict with certainty, and that the Delay Liquidated Damages are an appropriate approximation of such damages.

2.4 Except as otherwise provided herein, this Agreement shall terminate on _____.

SECTION 3: REPRESENTATIONS AND WARRANTIES

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

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

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

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

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

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

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

3.2.1 Seller is a [corporation/other] duly organized and validly existing under the laws of _____.

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

3.2.3 Seller's [shareholders/other owners, as appropriate, directors and officers/other management, as appropriate] have taken all actions required to authorize the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby.

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

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

3.2.6 The Facility is and shall for the term of this Agreement continue to be a "qualifying facility" ("QF") as that term is defined in the version of 18 C.F.R. Part 292 in

effect on the Effective Date. Seller has provided the appropriate QF certification, which may include a Federal Energy Regulatory Commission (“FERC”) self-certification to PacifiCorp prior to PacifiCorp’s execution of this Agreement. At any time during the term of this Agreement, PacifiCorp may require Seller to provide PacifiCorp with a written legal opinion from an attorney in good standing in the state of _____ (jurisdiction in which the Facility is located) and who has no economic relationship, association or nexus with the Seller or the Facility, stating that the Facility is a QF and providing sufficient proof (including copies of all documents and data as PacifiCorp may request) demonstrating that Seller has maintained and will continue to maintain the Facility as a QF.

SECTION 4 : DELIVERY OF POWER

4.1 Commencing on the Commercial Operation Date and continuing through the term of this Agreement, Seller shall sell and make available to PacifiCorp the entire Net Output from the Facility at the Delivery Point.

4.2 [Discuss any applicable minimum/maximum requirements and other project-specific terms/characteristics].

4.3 Upon completion of construction of the Facility, Seller shall provide PacifiCorp an As-built Supplement to specify the actual Facility as built. The As-built Supplement must be reviewed and approved by PacifiCorp, which approval shall not unreasonably be withheld, conditioned or delayed. Seller shall not increase the Nameplate Capacity Rating above that specified in Exhibit A or increase the ability of the Facility to deliver Net Output in quantities in excess of the Net Dependable Capacity through any means including, but not limited to, replacement of, modification of, or addition of existing equipment, except with the written consent of PacifiCorp. To the extent not otherwise provided in the Generation Interconnection Agreement, all costs associated with the modifications to PacifiCorp's interconnection facilities or electric system occasioned by or related to the interconnection of the Facility with PacifiCorp’s system, or any increase in generating capability of the Facility, or any increase of delivery of Net Dependable Capacity from the Facility, shall be borne by Seller.

SECTION 5: PURCHASE PRICES

5.1 PacifiCorp shall pay Seller the prices stated below for all deliveries of Net Output up to Net Dependable Capacity and the monthly delivery quantities set forth in Exhibit D. **[insert price terms to be developed based on individual project characteristics which may include firm/non-firm, energy/capacity and peak/off-peak, minimum/maximum components]**

5.1.1 **[Applicable if Firm pricing applies]** If Seller fails to deliver or make available any energy or capacity required under this Agreement, Seller shall pay PacifiCorp damages equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price for such energy and capacity, which

amount shall be due within five (5) business days from the date of any invoice by PacifiCorp for the same.

5.1.2 **[RESERVED FOR PRICING TERMS]**

5.2 PacifiCorp shall not be required to purchase any kW or kWh of Net Output above the Net Dependable Capacity or above the monthly delivery quantities set forth in Exhibit D, but may in its sole discretion, elect to pay for such additional Net Output on a non-firm basis.

SECTION 6: OPERATION AND CONTROL

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

6.2 Seller may cease operation of the entire Facility or individual units, if applicable, for Scheduled Maintenance Periods not to exceed thirty (30) days each Contract Year at such times as are provided in the monthly operating schedule set forth as Exhibit D.

6.3 If the Facility ceases operation for unscheduled maintenance, Seller immediately shall notify PacifiCorp of the necessity of such unscheduled maintenance, the time when such shutdown has occurred or will occur and the anticipated duration of such shutdown. Seller shall take all reasonable measures and exercise its best efforts to avoid unscheduled maintenance, to limit the duration of such unscheduled maintenance, and to perform unscheduled maintenance during non-peak hours.

6.4 **[generation dispatch/scheduling provisions to be developed on project-specific basis]**

SECTION 7: FUEL/MOTIVE FORCE

Prior to the Effective Date of this Agreement, Seller provided to PacifiCorp a fuel or motive force plan acceptable to PacifiCorp in its reasonable discretion and attached hereto as Exhibit F-1, together with a certification from a Licensed Professional Engineer attached hereto as Exhibit F-2, certifying that the implementation of the fuel or motive force plan can

reasonably be expected to provide fuel or motive force to the Facility for the duration of this Agreement.

SECTION 8: SECURITY

8.1 No later than sixty (60) days after the Effective Date, Seller shall deposit in an escrow account established by PacifiCorp in a banking institution acceptable to both Parties the sum of \$ _____ (“Project Development Security”). Such sum shall earn interest at the rate applicable to money market deposits at such banking institution from time to time. In the event that the Commercial Operation Date occurs on or before _____, 200__, but after the Scheduled Commercial Operation Date, PacifiCorp shall be entitled to withdraw from the escrow account an amount equal to the Delay Liquidated Damages until such time as the amount in escrow shall be exhausted. If the Commercial Operation Date occurs after _____, 200__, but before all funds in the escrow account have been exhausted, and if Seller at such time does not owe other damages to PacifiCorp, then the escrow account shall be closed and all funds remaining in the escrow account at such time shall be paid to Seller.

8.2 From time to time, Seller shall provide PacifiCorp with security against defaults by Seller under this Agreement in such form and amount as may be reasonably required by PacifiCorp (“Default Security”), and pursuant to such additional agreements or instruments as may be reasonably required by PacifiCorp, including, but not limited to letters of credit, escrow accounts, step-in rights, security interests in real property, equipment, fixtures, contracts, permits, easements, rights-of-way, pre-purchased fuel supplies, fuel supply contracts, thermal energy sales contracts, and fuel supply transportation contracts associated with the Facility. PacifiCorp may at any time, or pursuant to a request by Seller, recalculate the amount of Default Security required pursuant to this paragraph, in which case the PacifiCorp shall increase or decrease the existing amount of Default Security, as appropriate, to conform the new requirements. At no time shall the amount of Default Security to which PacifiCorp is entitled pursuant to this paragraph be less than PacifiCorp’s Net Replacement Power Costs, as calculated pursuant to Section 11.4.

8.3 If requested by PacifiCorp, Seller shall within thirty (30) days provide PacifiCorp with copies of its most recent annual and quarterly financial statements prepared in accordance with generally accepted accounting principles.

SECTION 9: METERING

9.1 PacifiCorp shall design, furnish, install, own, inspect, test, maintain and replace all metering equipment required pursuant to the Generation Interconnection Agreement.

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

9.3 PacifiCorp shall periodically inspect, test, repair and replace the metering equipment as provided in the Generation Interconnection Agreement. If any of the inspections or tests disclose an error exceeding two percent (2%), either fast or slow, proper correction, based upon the inaccuracy found, shall be made of previous readings for the actual period during which the metering equipment rendered inaccurate measurements if that period can be ascertained. If the actual period cannot be ascertained, the proper correction shall be made to the measurements taken during the time the metering equipment was in service since last tested, but not exceeding three (3) Billing Periods, in the amount the metering equipment shall have been shown to be in error by such test. Any correction in billings or payments resulting from a correction in the meter records shall be made in the next monthly billing or payment rendered. Such correction, when made, shall constitute full adjustment of any claim between Seller and PacifiCorp arising out of such inaccuracy of metering equipment.

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

SECTION 10: BILLINGS, COMPUTATIONS AND PAYMENTS

10.1 On or before the thirtieth (30th) day following the end of each Billing Period, PacifiCorp shall send to Seller payment for Seller's deliveries of Net Output to PacifiCorp, together with computations supporting such payment. PacifiCorp may offset any such payment to reflect amounts owing from Seller to PacifiCorp pursuant to this Agreement, the Generation Interconnection Agreement, any other agreement between the parties or otherwise.

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

SECTION 11: DEFAULT AND REMEDIES

11.1 The following events shall constitute defaults under this Agreement:

11.1.1 Failure of a Party to perform any material obligation imposed upon that Party by this Agreement (including but not limited to failure to make a payment when due, failure by Seller to provide adequate security pursuant to Section 8 or failure by Seller to meet any deadline set forth in Section 2.2) or breach by a Party of a representation or warranty set forth in this Agreement, if such failure or breach is not cured within thirty (30) days following written notice;

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

11.1.3 Seller's failure to cure any default under any commercial or financing agreements or instrument (including the Generation Interconnection Agreement) within the time allowed for a cure under such agreement or instrument; or

A Material Adverse Change has occurred with respect to Seller and Seller fails to provide such performance assurances as are reasonably requested by PacifiCorp, including without limitation the posting of additional Default Security or the maintenance or renewal of Default Security pursuant to Section 8.2, within fifteen (15) days from the date of such request.

Seller's failure to cause the Facility to achieve a Commercial Operation Date on or before the date that occurs _____ days after the Scheduled Commercial Operation Date.

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

11.3 If this Agreement is terminated because of Seller's default, Seller may not require PacifiCorp to purchase energy or capacity from the Facility prior to the date set forth in Section 2.4, and Seller hereby waives its rights to require PacifiCorp to do so. This Section 11.3 shall survive the termination of this Agreement.

11.4 If this Agreement is terminated as a result of Seller's default, Seller shall pay PacifiCorp the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price for any energy and capacity that Seller was otherwise obligated to provide during the remaining term of this Agreement ("Net Replacement Power Costs"). Amounts owed by Seller pursuant to this paragraph shall be due within five (5) business days after any invoice from PacifiCorp for the same.

11.5 If this Agreement is terminated because of Seller's default, PacifiCorp may foreclose upon any Default Security provided pursuant to Section 8.2 to satisfy any amounts that Seller owes PacifiCorp arising from such default.

SECTION 12: INDEMNIFICATION, LIABILITY AND INSURANCE

12.1 Indemnities.

12.1.1 Seller agrees to release, indemnify and hold harmless PacifiCorp, its directors, officers, agents, and representatives against and from any

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

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

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

12.3 PacifiCorp shall not be liable to Seller for special, punitive, indirect or consequential damages, whether arising from contract, tort (including negligence), strict liability or otherwise.

12.4 Seller shall comply with all applicable Workers' Compensation Laws and shall furnish proof thereof satisfactory to PacifiCorp prior to connection of the Facility to PacifiCorp's electric system.

12.5 Without limiting any liabilities or any other obligations of Seller, Seller shall, prior to connection of the Facility to PacifiCorp's electric system, secure and continuously carry with insurers acceptable to PacifiCorp the following insurance coverage:

All Risk Property insurance providing coverage in an amount at least equal to the full replacement value of the Facility against "all risks" of physical loss or damage, including coverage for earth movement, flood, and boiler and machinery. The Risk policy may contain separate sub-limits and deductibles subject to insurance company underwriting guidelines. The Risk Policy will be maintained in accordance with terms available in the insurance market for similar facilities.

Employers' Liability insurance with a minimum limit of \$1,000,000.

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

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

The Commercial General Liability policy required herein shall include i) provisions or endorsements naming PacifiCorp, its Board of Directors, Officers and employees as additional insureds, and ii) cross liability coverage so that the insurance applies separately to each insured against whom claim is made or suit is brought, even in instances where one insured claims against or sues another insured.

All liability policies required by this Agreement shall include provisions that such insurance is primary insurance with respect to the interests of PacifiCorp and that any other insurance maintained by PacifiCorp is excess and not contributory insurance with the insurance required hereunder, and provisions that such policies shall not be canceled or their limits of liability reduced without 1) ten (10) days prior written notice to PacifiCorp if canceled for nonpayment of premium, or 2) thirty (30) days prior written notice to PacifiCorp if canceled for any other reason. A certificate in a form satisfactory to PacifiCorp certifying to the issuance of such insurance, shall be furnished to PacifiCorp. Commercial General Liability coverage written on a "claims-made" basis, if any, shall be specifically identified on the certificate. If requested by PacifiCorp, a copy of each insurance policy, certified as a true copy by an authorized representative of the issuing insurance company, shall be furnished to PacifiCorp.

Insurance coverage provided on a "claims-made" basis shall be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement and for such other length of time necessary to cover liabilities arising out of the activities under this Agreement.

SECTION 13: FORCE MAJEURE

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

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

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

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

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

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

13.4 PacifiCorp may terminate the Agreement if Seller fails to remedy Seller's inability to perform, due to a Force Majeure event, within six months after the occurrence of the event.

SECTION 14: SEVERAL OBLIGATIONS

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

SECTION 15: CHOICE OF LAW

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

SECTION 16: PARTIAL INVALIDITY

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

SECTION 17: WAIVER

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

SECTION 18: GOVERNMENTAL JURISDICTION AND AUTHORIZATIONS

This Agreement is subject to the jurisdiction of those governmental agencies having control over either party or this Agreement. PacifiCorp's compliance with the terms of this Agreement is conditioned on Seller's submission to PacifiCorp prior to the Commercial Operation Date and maintaining thereafter copies of all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility.

SECTION 19: SUCCESSORS AND ASSIGNS

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

SECTION 20: ENTIRE AGREEMENT

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

20.2 By executing this Agreement, each party releases the other from any claims, known or unknown, that may have arisen prior to the Effective Date with respect to the Facility and any predecessor facility proposed to have been constructed on the site of the Facility.

SECTION 21: NOTICES

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

To Seller:

with a copy to:

To PacifiCorp:

Manager
QF Contracts
PacifiCorp - Suite 625 LCT
825 N.E. Multnomah
Portland, Oregon 97232

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

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

PacifiCorp

By: _____

Name: _____

Title

STATE OF _____)

COUNTY OF _____)

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

My commission expires:

_____ .

Notary Public

____ (Name Seller)

By: _____

Name: _____

Title: _____

STATE OF _____)

COUNTY OF _____)

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

My commission expires:

_____ .

Notary Public

EXHIBIT A
DESCRIPTION OF SELLER'S FACILITY

Seller's Facility consists of a _____ [gas-fired, waste coal, etc] generator manufactured by _____. More specifically, the Facility _____ [provide description of Facility, including motive force, bottoming or topping cycle, other use of heat if cogenerator].

Nameplate Capacity Rating: _____ kW, under the following conditions: [describe manufacturer's stated operating conditions]

Identify the maximum output of the generator(s) and describe any differences between that output and the Nameplate Capacity Rating:

Station service requirements are described as follows: _____

_____.

Location of the Facility: The Facility is to be constructed in the vicinity of _____ in _____ County, _____. The location is more particularly described as follows:

[legal description of parcel]

Power factor requirements:

EXHIBIT B

POINT OF DELIVERY / PARTIES' INTERCONNECTION FACILITIES

[include description of point of metering]

EXHIBIT C
REQUIRED FACILITY DOCUMENTS

EXHIBIT D
MONTHLY DELIVERY SCHEDULES

EXHIBIT E

START-UP TESTING

Required factory testing includes such checks and tests necessary to determine that the equipment systems and subsystems have been properly manufactured and installed, function properly, and are in a condition to permit safe and efficient start-up of the Facility, which may include but are not limited to:

1. Pressure tests of all steam system equipment;
2. Calibration of all pressure, level, flow, temperature and monitoring instruments;
3. Operating tests of all valves, operators, motor starters and motor;
4. Alarms, signals, and fail-safe or system shutdown control tests;
5. Insulation resistance and point-to-point continuity tests;
6. Bench tests of all protective devices;
7. Tests required by manufacturer of equipment; and
8. Complete pre-parallel checks with PacifiCorp.

Required start-up test are those checks and tests necessary to determine that all features and equipment, systems, and subsystems have been properly designed, manufactured, installed and adjusted, function properly, and are capable of operating simultaneously in such condition that the Facility is capable of continuous delivery into PacifiCorp's electrical system, which may include but are not limited to:

1. Turbine/generator mechanical runs including shaft, vibration, and bearing temperature measurements;
2. Running tests to establish tolerances and inspections for final adjustment of bearings, shaft run-outs;
3. Brake tests;
4. Energization of transformers;
5. Synchronizing tests (manual and auto);
6. Stator windings dielectric test;
7. Armature and field windings resistance tests;
8. Load rejection tests in incremental stages from 5, 25, 50, 75 and 100 percent load;
9. Heat runs;
10. Tests required by manufacturer of equipment;

- tests; 11. Excitation and voltage regulation operation
- tests; 12. Open circuit and short circuit; saturation
- 13. Governor system steady state stability test;
- 14. Phase angle and magnitude of all PT and CT secondary voltages and currents to protective relays, indicating instruments and metering;
- 15. Auto stop/start sequence;
- 16. Level control system tests; and
- 17. Completion of all state and federal environmental testing requirements.

EXHIBIT F-1

FUEL PLAN

EXHIBIT F-2
ENGINEER'S CERTIFICATION
OF
FUEL PLAN