

February 21, 2022

VIA ETARIFF

The Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

**RE: *PacifiCorp*, Docket No. ER22-____-000
Construction Agreement**

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act,¹ Part 35 of the Federal Energy Regulatory Commission's ("Commission") regulations,² and Order No. 714 regarding electronic filing of tariff submittals,³ PacifiCorp hereby tenders for filing the enclosed Construction and Security Agreement ("Construction Agreement") between Powerex Corp. ("Powerex") and PacifiCorp, designated as PacifiCorp Service Agreement No. 1038 under PacifiCorp's Open Access Transmission Tariff title in eTariff.

As discussed more fully below, the Construction Agreement sets forth the duties, responsibilities, and obligations with respect to the design, procurement, and installation of certain facilities necessary for PacifiCorp to provide transmission service requested by Powerex. PacifiCorp respectfully requests the Commission accept this agreement with an effective date of February 22, 2022.

I. Background

A. PacifiCorp

PacifiCorp is an Oregon corporation and vertically-integrated utility primarily engaged in providing retail electric service to approximately 1.9 million residential, commercial, industrial, and other customers in portions of six states: California, Idaho, Oregon, Utah, Washington, and Wyoming. PacifiCorp provides electric transmission service in nine Western states, and owns or has interests in approximately 16,500 miles of transmission lines and 71 thermal, hydroelectric, wind-powered generating, and geothermal facilities. PacifiCorp operates two balancing authority areas ("BAAs"), PACE and PACW, and provides open access transmission service in accordance with its OATT, which is on file with the Commission.

¹ 16 U.S.C. § 824d (2018).

² 18 C.F.R. Part 35 (2021).

³ *Electronic Tariff Filings*, Order No. 714, 124 FERC ¶ 61,270 (2008).

B. Powerex

Powerex is a corporation organized under the Business Corporations Act of British Columbia, with its principal place of business at Vancouver, British Columbia, Canada. Powerex is the wholly-owned power marketing subsidiary of the British Columbia Hydro and Power Authority (“BC Hydro”), a provincial Crown Corporation owned by the Government of British Columbia. Powerex sells power at wholesale in the United States, pursuant to market-based rate authority originally granted by the Commission on September 24, 1997.⁴

II. Description of Filing

The Construction Agreement authorizes PacifiCorp to proceed with all work associated with the design, engineering, and construction of facilities that are required to provide the point-to-point transmission service requested by Powerex. Powerex submitted a request to PacifiCorp to utilize 100 MW of point-to-point transmission service on PacifiCorp’s transmission system from BORA-REDB. In order to accommodate the request, PacifiCorp has determined that certain transmission facilities need to be constructed and/or upgraded, all of which constitute Network Upgrades with an estimated cost of approximately \$63 million. Specifically, as further outlined in Exhibit B of the Construction Agreement, each of the Ben Lomond-El Monte 138 kV transmission line (circuit #1), the Goshen-Fish Creek-Grace 161 kV transmission line, and the Grace-Oneida-Treasureton 138kV transmission line will require the rebuilding of various structures and reconductoring of various conductor, and each of the Ben Lomond, El Monte, Treasureton, Oneida, Grace and Goshen Substations will require various upgrades for both electrical and protective equipment. (the “Construction Project”). PacifiCorp will perform all design, procurement, and installation work under the Construction Agreement.

Powerex will provide financial security for the Construction Project in accordance with the financial security requirements of Section 19.4 of PacifiCorp’s OATT, which will be released in accordance with the Construction Agreement. The cost responsibility for the Construction Project will be borne by PacifiCorp as noted in Section 4.3, as all of the facilities to be constructed constitute Network Upgrades necessary for transmission service.

III. Information Required under 18 C.F.R. § 35.13

A. Proposed Effective Date and Request for Waiver

The Construction Agreement is necessary to implement service under PacifiCorp’s OATT. Accordingly, it is a “service agreement” under the Commission’s regulations and is being filed within 30 days of service commencing. Therefore, in accordance with 18 C.F.R. § 35.3(a)(2), PacifiCorp requests an effective date of February 22, 2022. To the extent that any filing

⁴ See *British Columbia Power Exch. Corp.*, 80 FERC ¶ 61,343 (1997); *British Columbia Power Exch. Corp.*, Docket No. ER97-4024-012 (Sept. 12, 2000) (unpublished letter order); *Powerex Corp.*, Docket No. ER01-48-002 (Oct. 30, 2003) (unpublished letter order); *Powerex Corp.*, Docket No. ER01-48-007 (July 26, 2007) (unpublished letter order); *Powerex Corp.*, Docket No. ER01-48-018 (Oct. 29, 2010) (unpublished letter order); *Powerex Corp.*, Docket Nos. ER10-3297-003, et al. (Aug. 29, 2014) (unpublished letter order); *Powerex Corp.*, Docket No. ER17-704-000 (Jan. 25, 2018) (unpublished letter order); *Atlantic Renewable Projects II LLC, et al.*, Docket Nos. ER10-2822-018, et al., (Dec. 3, 2020) (unpublished letter order).

requirement in Part 35 of the Commission's regulations is not satisfied by this filing and the materials enclosed herewith, PacifiCorp respectfully requests waiver of such requirements.

B. Communications

Correspondence and service regarding this filing should be sent to the following individuals, who should be placed on the official service list in this proceeding:

Matthew Loftus
Assistant General Counsel
PacifiCorp
825 N.E. Multnomah, Suite 1600
Portland, OR 97232
(512) 771-7434
Matthew.Loftus@PacifiCorp.com

Rick Vail
Vice President, Transmission
PacifiCorp
825 N.E. Multnomah, Suite 1600
Portland, OR 97232
(503) 813-6938
Richard.Vail@PacifiCorp.com

C. Documents Submitted with this Filing

In accordance with the requirements of Order No. 714 and the Commission's regulations, PacifiCorp is submitting an eTariff XML filing package consisting of the following materials:

- This transmittal letter;
- A copy of the Construction Agreement in eTariff format; and
- A copy of the Construction Agreement for filing in eLibrary.

IV. Service

Concurrent with this filing, and pursuant to 18 C.F.R. § 35.2(e), a copy of this filing is being served on the following:

Michael McWilliams
Director Transmission
Powerex Corp.
Suite 1300, 666 Burrard Street
Vancouver, BC, V6C2X8
Michael.Mcwilliams@powerex.com

Utah Public Service Commission
Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84114
psc@utah.gov

Idaho Public Utilities Commission
P.O. Box 83720
Boise, ID 83720-0074
secretary@puc.idaho.gov

V. Conclusion

For the reasons described above, PacifiCorp respectfully requests that the Commission accept the Construction Agreement for filing with an effective date of February 22, 2022.

Respectfully Submitted,

/s/ Matthew Loftus
Matthew Loftus

Counsel for PacifiCorp

PROJECT CONSTRUCTION AND SECURITY AGREEMENT
PROJECT TITLE: POWEREX CORP / BORA-REDB 100 MW PTP
TSR Q2913

This PROJECT CONSTRUCTION AGREEMENT (“Agreement”) is made and entered into as of February 2, 2022, by and between Powerex Corp., a British Columbia corporation (“Customer”), and PacifiCorp, an Oregon corporation (acting in its capacity of providing generator interconnection and transmission services under the terms of the OATT, “Company”). Customer and Company are also each referred to herein as a “Party” and, collectively, as the “Parties.” Capitalized terms used but not defined in this Agreement shall have the meanings established in Company’s Open Access Transmission Tariff (“OATT”).

RECITALS

- A. WHEREAS, Company owns and operates certain facilities for the transmission of electric power and energy located in Idaho and Utah;
- B. WHEREAS, Customer is a Transmission Customer of Company;
- C. WHEREAS, Customer has submitted a request to Company to utilize 100 MW of Point-to-Point Transmission Service on Company’s Transmission System from BORA-REDB (the “Point-to-Point Transmission Service”);
- D. WHEREAS, Company has completed a System Impact Study and a Facilities Study with respect to the Point-to-Point Transmission Service pursuant to applicable provisions of the OATT;
- E. WHEREAS, the System Impact Study and the Facilities Study identified certain new facilities (as more fully described in this Agreement, including Exhibit B, the “Project”) that are required to be designed, procured and installed in order for Company to provide the Point-to-Point Transmission Service;
- F. WHEREAS, the Parties desire that Company and Customer (as applicable) perform the Work (as such term is defined below) required to complete the Project, all on the terms and subject to the conditions set forth in this Agreement; and
- G. WHEREAS, Company requires Customer to provide security for the Project pursuant to the requirements Section 19.4 of its OATT.

NOW THEREFORE, in consideration of the premises and the mutual covenants and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

AGREEMENT

1. CERTAIN DEFINITIONS.

“Applicable Laws and Regulations” shall mean all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.

“Applicable Reliability Standards” shall mean the requirements and guidelines of the North American Electric Reliability Corporation (“NERC”), the Western Electricity Coordinating Council (“WECC”), and the Balancing Authority Area of the Transmission System to which Customer is directly interconnected.

“Good Utility Practice” shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

“Governmental Authority” shall mean any Federal, state, local, or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include Customer, Company, or any of their respective Affiliates.

“Network Upgrades” shall mean additions, modifications and upgrades to Company’s Transmission System required at or beyond the point at which Customer’s facilities connect with Company’s Transmission System. Network Upgrades are integrated with and support Company’s Transmission System for the general benefit of all users of such Transmission System.

2. TERM; TERMINATION.

2.1. Term. This Agreement shall become effective upon the later of the following: (a) the date of execution by both Parties, or (b) the effective date established by the Federal Energy Regulatory Commission (“FERC”) upon acceptance of this Agreement for filing or the approval by the FERC of this Agreement (such later date being the “Effective Date”), and shall remain in effect until the earlier of (x) the completion of the Work or (y) the earlier termination of this Agreement in accordance with Section 2.2 (the “Term”).

2.2. Termination. This Agreement may be terminated:

- (i) by Company, in accordance with Section 4.5 (Revised Cost Estimate; Revised Customer Security; Termination); or
- (ii) by Customer, in accordance with Section 12 (Right to Stop Work).

Notwithstanding clauses (i) and (ii) above, any termination of this Agreement (and the effectiveness thereof) shall be subject to acceptance by the FERC.

3. SCOPE OF WORK.

3.1. Project Description and Scope. In order for Company to provide the Service, among other things, each of the Ben Lomond-El Monte 138kV transmission line (circuit #1), the Goshen-Fish Creek-Grace 161 kV transmission line, and the Grace-Oneida-Treasureton 138kV transmission line will require the rebuilding of various structures and reconductoring of various conductor, and each of the Ben Lomond, El Monte, Treasureton, Oneida, Grace and Goshen Substations will require various upgrades for both electrical and protective equipment, as more fully described in Exhibit B.

3.2. Company Responsibilities for Work. Company shall perform the design, procurement and installation of the Project, as described in Exhibit B (collectively, the “Work”).

3.3. Customer Responsibilities for Work. Customer shall not be responsible for any of the Work.

4. OWNERSHIP AND OPERATION; COST ESTIMATE; COST RESPONSIBILITY; SECURITY; TERMINATION.

4.1. Ownership and Operation. Company shall own and operate the Project. Customer shall have no ownership interest in or obligation to operate the Project.

4.2. Cost Estimate; Certain Assumptions.

4.2.1. Cost Estimate. As set forth in Exhibit A, as of the date of this Agreement, Company’s estimated cost of performing the Work is \$63,346,000 (the “Initial Cost Estimate”), all of which constitute Network Upgrade costs.

4.2.2. Certain Assumptions. The Initial Cost Estimate includes engineering, labor, materials, subcontracts and applicable overheads, and is based, in part, on the following assumptions:

- (i) the Initial Cost Estimate is based on calendar year 2021 dollars;
- (ii) if construction is delayed, the Initial Cost Estimate likely will need to be adjusted;

- (iii) no exceptional site preparation will be required;
- (iv) the Project will be installed during normal business hours and will not require schedule compression or overtime; and
- (v) no new permitting or real property rights will be required.

4.3. Cost Responsibility. On the terms and subject to the conditions set forth in this Agreement, Company agrees to pay the amount of the Initial Cost Estimate or any Revised Cost Estimate, all of which are Network Upgrade costs.

4.4. Customer Security.

4.4.1. The Parties acknowledge that Customer previously has (a) executed a Service Agreement with Company (or requested the filing by Company of an unexecuted Service Agreement) for the Point-to-Point Transmission Service, and (b) in accordance with Section 19.4 of the OATT, delivered to Company either (i) a letter of credit meeting the requirements of Section 2(a) of Attachment L to the OATT, (ii) a guaranty meeting the requirements of Section 2(b) of Attachment L to the OATT, or (iii) other reasonable form of security acceptable to Company (the “Customer Security”), in each case, in an amount equivalent to the Initial Cost Estimate consistent with commercial practices as established by the Uniform Commercial Code.

4.4.2. The Parties agree that the Customer Security, and any Revised Customer Security (as such term is defined below), shall be available to Company to settle obligations of Customer pursuant to Section 4.5 and Section 12).

4.4.3. The Customer Security, and any Revised Customer Security, shall remain outstanding and in full force and effect until the earlier of (a) the date as of which all of the Work has been completed and the Project has been installed, or (b) the date upon which Company has received full payment by Customer for all Project Costs, Enhanced Project Costs, Stop-Work Project Costs or Enhanced Stop-Work Project Costs (as such terms are defined below), as applicable, in accordance with this Agreement (the “Security Termination Date”).

4.4.4. Upon the occurrence of the Security Termination Date, (a) in the case of a letter of credit, Company shall, within fifteen (15) calendar days after the Security Termination Date, return the remaining balance of such letter of credit to Customer, (b) in the case of a guaranty, Company and Customer shall, within fifteen (15) calendar days after the Security Termination Date, use commercially reasonable efforts to execute and deliver a customary and mutually acceptable termination agreement with respect to such guaranty, and (c) in the case of other security, the Parties shall, promptly following the Security Termination Date, use commercially reasonable efforts to return, terminate or otherwise cancel such other security on terms mutually acceptable to the Parties.

4.5. Revised Cost Estimate; Revised Customer Security; Termination.

4.5.1. During the Term, if Company determines that the cost of performing the Work may exceed the Initial Cost Estimate, Company shall, within thirty (30) calendar days after making such determination, deliver a written notice to Customer (a “Revised Cost and Security Notice”) that includes Company’s revised estimated cost of performing the Work (a “Revised Cost Estimate”), together with a request that Customer deliver to Company an additional or replacement (a) letter of credit meeting the requirements of Section 2(a) of Attachment L to the OATT, (b) guaranty meeting the requirements of Section 2(b) of Attachment L to the OATT or (c) other reasonable form of security acceptable to Company, in an additional or revised amount equivalent to the Revised Cost Estimate (the “Revised Customer Security”).

4.5.2. Within fifteen (15) calendar days after Company delivers to Customer the Revised Cost and Security Notice, Customer shall deliver to Company the Revised Customer Security. Company shall have no obligation to perform or to continue to perform any of the Work until such time that Customer delivers to Company the Revised Customer Security. Upon Customer’s delivery of the Revised Customer Security to Company, the Parties agree that Exhibit A (Estimated Network Upgrade Costs) shall be amended to reflect the Revised Cost Estimate, and corresponding amendments (if any) shall be made to Exhibit B (Estimated Scope of Work) and Exhibit C (Estimated Schedule and Milestones).

4.5.3. If Customer fails to deliver the Revised Customer Security to Company within such fifteen (15) calendar day period, Company shall have the right to terminate this Agreement upon written notice to Customer (a “Termination Notice”); provided that Customer shall have a period of fifteen (15) calendar days after the date of the Termination Notice (the “Cure Period”) in which to deliver the Revised Customer Security. If Customer fails to deliver the Revised Customer Security within the Cure Period, this Agreement shall, without further action by either Party (but subject to acceptance by the FERC pursuant to Section 2.2), automatically terminate as of the date on which the Cure Period expires, and Customer shall be liable to Company for the Project Costs or the Enhanced Project Costs, as applicable, subject to Section 4.7.

4.6. Project Costs; Enhanced Project Costs. Promptly following the expiration of the Cure Period, Company shall determine, in its sole discretion, acting reasonably, if the Work can be promptly stopped without adversely affecting the safety and reliability of Company’s Transmission System.

4.6.1. If Company determines that the Work can be promptly stopped without adversely affecting the safety and reliability of Company’s Transmission System: (a) Company shall promptly stop all Work, and (b) Customer shall pay to Company an amount equal to the sum of (x) the costs incurred by Company with respect to the Work as of the date on which the Cure Period expires, plus (y) interest on the costs described in clause (x) above, as calculated in accordance with the methodology set forth in the FERC’s regulations at 18 C.F.R. § 35.19a(a)(2)(iii), in each case, as determined by Company and invoiced to Customer (collectively, the

“Project Costs”). Customer shall pay, by wire transfer of immediately available funds to an account specified by Company, such Project Costs within thirty (30) calendar days after receipt of such invoice from Company. If Customer fails to pay such Project Costs within such thirty (30) calendar day period, Company shall be entitled to pursue all rights and remedies available to it at law or in equity, including the right to draw on the Customer Security in an amount equal to the Project Costs.

4.6.2. If Company determines that the Work *cannot* be promptly stopped without adversely affecting the safety and reliability of Company’s Transmission System: (a) Company shall, as soon as reasonably practical and in accordance with Applicable Laws and Regulations, Applicable Reliability Standards and Good Utility Practice, stop all Work, and (b) Customer shall pay to Company an amount equal to the sum of (x) the costs incurred by Company with respect to the Work as of the date on which the Cure Period expires, plus (y) the costs incurred by Company after the date on which the Cure Period expires with respect to all system improvements or upgrades, including Network Upgrades, that Company determines are reasonably necessary to maintain the safety and reliability of Company’s Transmission System, plus (z) interest on the costs described in clauses (x) and (y) above, as calculated in accordance with the methodology set forth in the FERC’s regulations at 18 C.F.R. § 35.19a(a)(2)(iii), in each case, as determined by Company and invoiced to Customer (collectively, the “Enhanced Project Costs”). Customer shall pay, by wire transfer of immediately available funds to an account specified by Company, such Enhanced Project Costs within thirty (30) calendar days after receipt of such invoice from Company. If Customer fails to pay such Enhanced Project Costs within such thirty (30) calendar day period, Company shall be entitled to pursue all rights and remedies available to it at law or in equity, including the right to draw on the Customer Security in an amount equal to the Enhanced Project Costs.

4.7. Refund Matters. Company shall make commercially reasonable efforts to recover the Project Costs or Enhanced Project Costs, as applicable, through its rates. The amount of the Project Costs or the Enhanced Project Costs, as applicable, whether paid directly by Customer to Company or by Company having drawn on the Customer Security, shall be refunded to Customer no later than six (6) calendar months after both of the following having occurred: (a) all applicable state regulatory authorities have approved the inclusion of the Project Costs or the Enhanced Project Costs, as applicable, in Company’s retail rates; and (b) Company has included the Project Costs or the Enhanced Project Costs, as applicable, in its transmission formula rate under the OATT for a complete Annual Update cycle (including projection and true-up) in accordance with Attachment H-2 to the OATT, without successful challenge by Transmission Customers or other OATT customers resulting in such Project Costs or Enhanced Project Costs, as applicable, not being included in Company’s transmission formula rate (collectively, the “Refund Conditions”). For the avoidance of doubt, in the event that both Refund Conditions have not been met, no Project Costs or Enhanced Project Costs, as applicable, shall be refunded to Customer.

5. TAXES.

5.1. Customer Payments Not Taxable. The Parties intend that all payments or property transfers made by Customer to Company for the installation of the Project shall be non-taxable, either as contributions to capital, or as a refundable advance, in accordance with the Internal Revenue Code (“IRC”) and any applicable state income tax laws and shall not be taxable as contributions in aid of construction or otherwise under the IRC and any applicable state income tax laws. For purposes of this Section 5, payments made by Customer to Company shall include a draw by Company on Customer Security or Revised Customer Security pursuant to Section 4.

5.2. Indemnification for the Cost Consequences of Current Tax Liability Imposed Upon Company. Notwithstanding Section 5.1, Customer shall protect, indemnify, and hold harmless Company from the cost consequences of any current tax liability imposed against Company as the result of payments or property transfers made by Customer to Company under this Agreement for the Project, as well as any interest and penalties, other than interest and penalties attributable to any delay caused by Company.

Company shall not include a gross-up for the cost consequences of any current tax liability in the amounts it charges Customer under this Agreement unless (i) Company has determined, in good faith, that the payments or property transfers made by Customer to Company should be reported as income subject to taxation or (ii) any Governmental Authority directs Company to report payments or property as income subject to taxation; provided, however, that Company may require Customer to provide security in an amount calculated in the manner set forth in Section 5.3, in a form reasonably acceptable to Company. Customer shall reimburse Company for such costs on a fully grossed-up basis, in accordance with Section 5.3, within thirty (30) calendar days of receiving written notification from Company of the amount due, including detail about how the amount was calculated.

5.3. Tax Gross-up Amount. Customer’s liability for the cost consequences of any current tax liability under this Section 5 shall be calculated on a fully grossed-up basis. Except as may otherwise be agreed to by the Parties, this means that Customer will pay Company, in addition to the amount paid for the Project, an amount equal to (1) the current taxes imposed on Company (“Current Taxes”) on the excess of (a) the gross income realized by Company as a result of payments or property transfers made by Customer to Company under this Agreement (without regard to any payments under this Section 5) (the “Gross Income Amount”) over (b) the present value of future tax deductions for depreciation that will be available as a result of such payments or property transfers (the “Present Value Depreciation Amount”), plus (2) an additional amount sufficient to permit Company to receive and retain, after the payment of all Current Taxes, an amount equal to the net amount described in clause (1).

For this purpose, (1) Current Taxes shall be computed based on Company’s composite Federal and state tax rates at the time the payments or property transfers are received and Company will be treated as being subject to tax at the highest marginal rates in effect at that time (the “Current Tax Rate”), and (2) the Present Value Depreciation Amount shall

be computed by discounting Company's anticipated tax depreciation deductions as a result of such payments or property transfers by Company's current weighted average cost of capital. Thus, the formula for calculating Customer's liability to Company pursuant to this Section 5 can be expressed as follows:

(Current Tax Rate x (Gross Income Amount — Present Value of Tax Depreciation)) / (1-Current Tax Rate).

5.4. Contests. In the event any Governmental Authority determines that Company's receipt of payments or property constitutes income that is subject to taxation, Company shall notify Customer, in writing, within thirty (30) calendar days of receiving notification of such determination by a Governmental Authority.

5.5. Refund. In the event that (a) any legislative change or administrative announcement, notice, ruling or other determination makes it reasonably clear to Company in good faith that any amount paid or the value of any property transferred by Customer to Company under the terms of this Agreement is not taxable to Company, (b) any abatement, appeal, protest, or other contest results in a determination that any payments made by Customer to Company are not subject to Federal income tax, or (c) if Company receives a refund from any Governmental Authority for any overpayment of tax attributable to any payment or property transfer by Customer to Company pursuant to this Agreement, Company shall promptly refund to Customer the following:

- (i) any payment made by Customer under this Section 5 for taxes that is attributable to the amount determined to be non-taxable, together with interest thereon;
- (ii) interest on any amounts paid by Customer to Company for such taxes which Company did not submit to the Governmental Authority, calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. § 35.19a(a)(2)(iii) from the date payment was made by Customer to the date Company refunds such payment to Customer; and
- (iii) with respect to any such taxes paid by Company, any refund or credit Company receives or to which it may be entitled from any Governmental Authority, interest (or that portion thereof attributable to the payment described in clause (i), above) owed to Company for such overpayment of taxes (including any reduction in interest otherwise payable by Company to any Governmental Authority resulting from an offset or credit); provided, however, that Company will remit such amount promptly to Customer only after and to the extent that Company has received a tax refund, credit, or offset from any Governmental Authority for any applicable overpayment of income tax related to Company's Project.

The intent of this provision is to leave the Parties, to the extent practicable, in the event that no taxes are due with respect to any payment for the Project hereunder, in the same position they would have been in had no such tax payments been made.

6. PROJECT SCHEDULE. As of the date of this Agreement, the Parties have agreed to the Estimated Schedule and Milestones attached as Exhibit C for the completion of the Project. All Project schedule milestones shall be best estimates of the time required to complete Company's task at the time the schedule was developed.

7. STANDARD OF WORK. Each Party shall perform all of its obligations under this Agreement in accordance with Applicable Laws and Regulations, Applicable Reliability Standards and Good Utility Practice. To the extent a Party is required to take, or is prevented from or limited in taking, any action by any of the foregoing, such Party shall not be deemed to be in breach of this Agreement for compliance therewith.

8. [INTENTIONALLY DELETED].

9. INSPECTION. Customer may, at its discretion and expense, inspect Company's construction work in progress for the Project upon reasonable notice to, and with supervision by, Company.

10. TESTING. Before the new facilities required for the Project are energized, such new facilities shall be tested by Company to ensure their safe and reliable operation in accordance with Good Utility Practice, Applicable Laws and Regulations and Applicable Reliability Standards. If testing indicates that modifications are required, Company shall be responsible for the cost of all such modifications in accordance with Section 4.3 above, and Company may deliver to Customer a Revised Cost Estimate for the Project to reflect such modifications in accordance with Section 4.5.

11. ACCESS. Either Party shall grant the other Party reasonable escorted access to the Project consistent with such access rights as are established in prior agreements between the Parties, provided that each Party provides reasonable notice and complies with the other Party's safety and security rules.

12. RIGHT TO STOP WORK.

12.1. Right to Stop Work; Termination. During the Term, Customer reserves the right, upon thirty (30) days' advance written notice to Company, to require Company to stop all Work on the Project (a "Stop-Work Notice"). If Customer delivers a Stop-Work Notice to Company, this Agreement shall, without further action by either Party (but subject to acceptance by the FERC pursuant to Section 2.2), automatically terminate as of the date of the Stop-Work Notice and Customer shall be liable to Company for the Stop-Work Project Costs or the Enhanced Stop-Work Project Costs (as each such term is below).

12.2. Stop-Work Project Costs; Enhanced Stop-Work Project Costs. Upon Company's receipt of a Stop-Work Notice, Company shall determine, in its sole and reasonable discretion, if the Work can be promptly stopped without adversely affecting the safety and reliability of Company's Transmission System.

12.2.1. If Company determines that the Work can be promptly stopped without adversely affecting the safety and reliability of Company's Transmission System:
(a) Company shall promptly stop all Work, and (b) Customer shall pay to Company

an amount equal to the sum of (x) the costs incurred by Company with respect to the Work as of the date of the Stop-Work Notice, plus (y) interest on the costs described in clause (x) above, as calculated in accordance with the methodology set forth in the FERC's regulations at 18 C.F.R. § 35.19a(a)(2)(iii), in each case, as determined by Company and invoiced to Customer (collectively, the "Stop-Work Project Costs"). Customer shall pay, by wire transfer of immediately available funds to an account specified by Company, such Stop-Work Project Costs within thirty (30) calendar days after receipt of such invoice from Company. If Customer fails to pay the Stop-Work Project Costs within such thirty (30) calendar day period, Company shall be entitled to pursue all rights and remedies available to it at law or in equity, including the right to draw on the Customer Security or the Revised Customer Security, as applicable, in an amount equal to the Stop-Work Project Costs.

12.2.2. If Company determines that the Work *cannot* be promptly stopped without adversely affecting the safety and reliability of Company's Transmission System: (a) Company shall, as soon as reasonably practical and in accordance with Applicable Laws and Regulations, Applicable Reliability Standards and Good Utility Practice, stop all Work, and (b) Customer shall pay to Company an amount equal to the sum of (x) the costs incurred by Company with respect to the Work as of the date of the Stop-Work Notice, plus (y) the costs incurred by Company after the date of the Stop-Work Notice with respect to all system improvements or upgrades, including Network Upgrades, that Company determines are reasonably necessary to maintain the safety and reliability of Company's Transmission System, plus (z) interest on the costs described in clauses (x) and (y) above, as calculated in accordance with the methodology set forth in the FERC's regulations at 18 C.F.R. § 35.19a(a)(2)(iii), in each case, as determined by Company and invoiced to Customer (collectively, the "Enhanced Stop-Work Project Costs"). Customer shall pay, by wire transfer of immediately available funds to an account specified by Company, such Enhanced Stop-Work Project Costs within thirty (30) calendar days after receipt of such invoice from Company. If Customer fails to pay the Enhanced Stop-Work Project Costs within such thirty (30) calendar day period, Company shall be entitled to pursue all rights and remedies available to it at law or in equity, including the right to draw on the Customer Security or the Revised Customer Security, as applicable, in an amount equal to the Enhanced Stop-Work Project Costs.

12.3. Refund Matters. Company shall make commercially reasonable efforts to recover the Stop-Work Project Costs or Enhanced Stop-Work Project Costs, as applicable, through its rates. The amount of the Stop-Work Project Costs or the Enhanced Stop-Work Project Costs, as applicable, (whether paid directly by Customer to Company or by Company having drawn on the Customer Security or the Revised Customer Security, as applicable) shall be refunded to Customer no later than six (6) calendar months after both of the following having occurred: (a) all applicable state regulatory authorities have approved the inclusion of the Stop-Work Project Costs or the Enhanced Stop-Work Project Costs, as applicable, in Company's retail rates; and (b) Company has included the Stop-Work Project Costs or the Enhanced Stop-Work Project Costs, as applicable, in its transmission formula

rate under the OATT for a complete Annual Update cycle (including projection and true-up) in accordance with Attachment H-2 to the OATT, without successful challenge by Transmission Customers or other OATT customers resulting in such Stop-Work Project Costs or Enhanced Stop-Work Project Costs, as applicable, not being included in Company's transmission formula rate (collectively, the "Stop-Work Refund Conditions"). For the avoidance of doubt, in the event that both Stop-Work Refund Conditions have not been met, no Stop-Work Project Costs or Enhanced Stop-Work Project Costs, as applicable, shall be refunded to Customer.

13. GOVERNING LAW. Enforcement or interpretation of this Agreement shall be in the federal courts sitting in the State of Idaho, and all parties hereby submit to the jurisdiction of said courts for the stated purpose. Furthermore, this Agreement shall be governed by and construed in accordance with the laws of the State of Idaho.

14. NO PARTNERSHIP. This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

15. ASSIGNMENT. Company may at any time assign its rights and delegate its obligations under this Agreement, in whole or in part, including, without limitation, transferring its rights and obligations under this Agreement to any: (i) Affiliate; (ii) successor in interest with respect to the Project; or (iii) corporation or any other business entity in conjunction with a merger, consolidation, or other business reorganization to which Company is a party. Affiliate of Company includes any entity in which Berkshire Hathaway, Inc. owns more than a 5% interest, over which Berkshire Hathaway exercises management control. Should such assignment take place, Company will provide written notice to Customer. Customer shall not assign its rights, nor delegate its obligations, under this agreement without the prior written consent of Company, which shall not be unreasonably withheld, and any attempted assignment, delegation or other transfer in violation of this restriction shall be void.

16. PROVISIONAL REMEDIES. Either Party may seek provisional legal remedies, if in such Party's judgment such action is necessary to avoid irreparable damage or preserve the status quo.

17. ENTIRE CONTRACT. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and there are no oral or written understandings, representations, or commitments of any kind, express or implied, which are not expressly set forth herein.

18. NOTICES. Any correspondence regarding this Agreement shall be directed to the appropriate party (or parties) as shown below:

Customer: Michael McWilliams
Director, Transmission
Powerex Corp.
Suite 1300, 666 Burrard Street
Vancouver, BC, V6C 2X8

Company: Vice President, Transmission Services
825 NE Multnomah St., Suite 1600
Portland, OR 97232

19. PAYMENT. Except as otherwise provided in this Agreement, all payments shall be sent to:

US Mail Deliveries: Company Transmission
P.O. Box 2757
Portland, OR 97208

Other Deliveries: Company Transmission
Attn: Central Cashiers
825 NE Multnomah St., Suite 550
Portland, OR 97232

20. INDEMNIFICATION. Customer shall indemnify and hold harmless Company, including its officers, employees, contractors and agents (collectively, the "Indemnified Parties"), from and against any and all actual or alleged liability, loss, damage, claims, actions, costs and expenses of any nature, including court costs and attorneys' fees (individually, a "Loss" and collectively, "Losses"), arising in any way in connection with, or related to the Indemnified Parties' performance of Work and other obligations under this Agreement, excluding any third-party claims directly attributable to the sole negligence of the Indemnified Parties. Customer's indemnification obligations set forth herein shall not be limited by workers' compensation, disability, or employee benefit laws applicable to Customer or any Indemnified Party. At the request of an Indemnified Party, Customer shall defend any action, claim, or suit asserting a Loss that might be covered by this indemnity. If an Indemnified Party makes such election under the preceding sentence, (a) counsel for Customer who shall conduct the defense of such action, claim, or suit shall be reasonably satisfactory to the Indemnified Party; (b) the Indemnified Party may participate in such defense; and (c) Customer may not settle any such action, claim, or suit without the consent of the Indemnified Party, such consent not to be unreasonably withheld or delayed. Customer shall pay all costs and expenses that may be incurred by any Indemnified Party in enforcing this indemnity and defense agreement, including attorneys' fees actually paid by any Indemnified Party.

21. LIMITATION OF LIABILITY. Except as otherwise expressly provided in this Agreement, each Party's liability to the other Party for any Loss relating to or arising from any act or omission in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any indirect, special, consequential, or punitive damages, except as specifically authorized by this Agreement.

22. FORCE MAJEURE.

22.1. A Party shall not be subject to any liability or damages for inability to meet its obligations under this Agreement to the extent that such failure shall be due to causes beyond the control of the Party, including, but not limited to the following: (a) the operation and effect of any new or modified rules, regulations, and orders promulgated by FERC, any applicable state public utility commission, or any Governmental Authority, including NERC and WECC (so long as the claiming party has not applied for or assisted in the application for, and has opposed where and to the extent reasonable, such governmental action); (b) restraining order, injunction, or similar decree of any court; and (c) any Force Majeure event.

22.2. “Force Majeure” shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military, or lawfully established civilian authorities, or any other cause beyond a Party’s control. A Force Majeure event does not include acts of negligence or intentional wrongdoing by the Party claiming Force Majeure.

22.3. The Party claiming Force Majeure shall make every reasonable attempt to remedy the cause thereof as diligently and expeditiously as possible. Except for the obligation to pay amounts owed when due, time periods for performance obligations of either Party herein shall be extended for the period during which Force Majeure was in effect.

23. SUCCESSORS. This Agreement will be binding upon the Parties and will inure to the benefit of their respective successors.

24. SEVERABILITY. If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (a) such portion or provision shall be deemed separate and independent, (b) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (c) the remainder of this Agreement shall remain in full force and effect.

25. 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 AGREEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE, OR TO REQUEST THE CONSOLIDATION OF, 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.

26. MULTIPLE COUNTERPARTS. This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

27. CONTRACTORS AND SUBCONTRACTORS. Nothing in this Agreement shall prevent Company from utilizing the services of any third party contractor or subcontractor as it deems

appropriate to perform its obligations under this Agreement; provided, however, that Company shall require any third party contractor and subcontractor to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such third party contractor and subcontractor.

28. NO THIRD-PARTY BENEFICIARIES. This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

29. SURVIVAL. All payment obligations and liabilities incurred before the termination or expiration of this Agreement will survive its termination or expiration.

30. MODIFICATIONS OR AMENDMENTS. Except as set forth in Section 4.5.2, no modification or amendment of any provision of this Agreement shall be effective unless set forth in a written document signed by an authorized representative of each Party. All modifications or amendments to this Agreement, if originally filed at FERC, will be filed by Company as an amended and restated agreement.

31. RECITALS. The above stated recitals are incorporated into and made part of this Agreement by this reference to the same extent as if these recitals were set forth in full at this point.

32. WAIVER. Waiver of any right, privilege, claim, obligation, condition, or default shall be in writing and signed by the waiving Party. No waiver by a Party of any breach of this Agreement shall be a waiver of any preceding or succeeding breach, and no waiver by a Party of any right under this Agreement shall be construed as a waiver of any other right.

33. DISPUTE RESOLUTION.

33.1. Submission. In the event either Party has a dispute, or asserts a claim, that arises out of or in connection with this Agreement, such Party shall provide the other Party with written notice of the dispute or claim (a "Notice of Dispute"). Such dispute or claim shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Party. In the event the designated representatives are unable to resolve the claim or dispute through unassisted or assisted negotiations within thirty (30) calendar days of the other Party's receipt of the Notice of Dispute, such claim or dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In the event the Parties do not agree to submit such claim or dispute to arbitration, each Party may exercise whatever rights and remedies it may have at law or in equity.

33.2. Arbitration Procedures. Any arbitration initiated under these procedures shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) calendar days of the submission of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) calendar days

select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association.

33.3. Arbitration Decisions. Unless otherwise agreed in writing by the Parties, the arbitrator(s) shall render a decision within ninety (90) calendar days of appointment and shall notify the Parties in writing of such decision and the reasons therefore. The arbitrator(s) shall be authorized only to interpret and apply the provisions of this Agreement and shall have no power to modify or change any provision of this Agreement in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties (absent manifest error), and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute Resolution Act. The final decision of the arbitrator must also be filed with FERC if it affects jurisdictional rates, terms, and conditions of service.

33.4. Costs. Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (a) the cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or (b) one-half the cost of the single arbitrator jointly chosen by the Parties.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement effective as of the day and year first herein above written.

COMPANY

POWEREX CORP

/s/ Rick Vail

Signature

/s/ Tom Bechard

Signature

Rick Vail

Printed Name of Signor

Tom Bechard

Printed Name of Signor

VP, Transmission

Title of Signor

President and CEO

Title of Signor

February 8, 2022

Date

January 28, 2022

Date

Exhibit A
Estimated Network Upgrade Costs

Subordinate Area	Network Upgrade Cost
D47 & D74 Grace — Oneida — Treasureton 138kV	\$18,779,000
Ben Lomond Substation	\$179,000
El Monte Substation	\$179,000
Goshen Substation	\$87,000
Oneida Substation	\$542,000
Grace Substation	\$87,000
Treasureton Substation	\$87,000
Ben Lomond — El Monte #1 138kV Line	\$7,724,000
Goshen — Fish Creek — Grace 161kV	\$35,682,000
Grand Total	\$63,346,000

Exhibit B

Estimated Scope of Work

All work to be completed by Company, unless explicitly stated otherwise.

Communications Additions

Provide circuit channels for the line differential scheme between El Monte and Ben Lomond substations.

SCADA Additions

Minor work is required in the Monarch database at Goshen 161 kV, Grace, Oneida , Ben Lomond and El Monte substations.

Substation Additions

- Ben Lomond Substation

Conductor will be replaced in the bay for the 138 kV line to El Monte. New relay panel will be installed in the control house.

- El Monte Substation

Conductor will be replaced in the bay for the 138 kV line to Ben Lomond. New relay panels will be installed in the control house.

- Treasureton Substation

Conductor will be replaced in the bay for the 138 kV line to Oneida.

- Oneida Substation

Three 138 kV switches will be replaced. Conductor will be replaced in the bays for the 138 kV lines to Grace and Treasureton. The 138 kV bus conductor will be replaced.

- Grace Substation

Conductor will be replaced in the bay for the 138 kV line to Oneida and the 161 kV line to Goshen.

- Goshen Substation

Conductor will be replaced in the bay for the 161 kV line to Grace.

Transmission Additions

Transmission line improvements have been identified that will increase the line rating of the following three transmission lines.

- Ben Lomond — El Monte 138kV #1:

The first 7.95 miles of this line measured from the Ben Lomond is a double circuit steel lattice tower segment that will be reconducted with a high-temperature / low-sag conductor. The remaining 6.05 miles of this line is a combination of horizontal configured 2-pole wood construction and single pole wood and steel, double circuit construction. This segment will be rebuilt with a higher capacity ACSR type conductor and the structures that require replacement will be rebuilt.

- Goshen — Fish Creek — Grace 161kV:

This existing transmission line will be reconducted using a higher capacity ACSR type conductor, and the structures that require replacement will be rebuilt.

- Grace — Oneida — Treasureton 13 8kV:
This existing transmission line will be reconducted using a higher capacity ACSR type conductor, and the structures that require replacement will be rebuilt.

Exhibit C
Estimated Schedule and Milestones

The estimated schedule and milestones are driven by the below timeframes which may be adjusted through the course of the Project. If there is a delay in any of the below activities, there will be, at a minimum, a day-for-day slip in the entire schedule. Any delays in the Project have the potential to affect the entire schedule.

Milestones	Estimated Date
Execute Construction Agreement	January 31, 2022
Begin Engineering	July 25, 2022
Begin Procurement	November 21, 2022
Engineering design completed	May 22, 2023
Construction Begins	August 21, 2023
Construction Complete	January 3, 2025
Estimated Commercial Operation	January 31, 2025

PROJECT CONSTRUCTION AND SECURITY AGREEMENT
PROJECT TITLE: POWEREX CORP / BORA-REDB 100 MW PTP
TSR Q2913

This PROJECT CONSTRUCTION AGREEMENT (“Agreement”) is made and entered into as of February 8, 2022, by and between Powerex Corp., a British Columbia corporation (“Customer”), and PacifiCorp, an Oregon corporation (acting in its capacity of providing generator interconnection and transmission services under the terms of the OATT, “Company”). Customer and Company are also each referred to herein as a “Party” and, collectively, as the “Parties.” Capitalized terms used but not defined in this Agreement shall have the meanings established in Company’s Open Access Transmission Tariff (“OATT”).

RECITALS

- A. WHEREAS, Company owns and operates certain facilities for the transmission of electric power and energy located in Idaho and Utah;
- B. WHEREAS, Customer is a Transmission Customer of Company;
- C. WHEREAS, Customer has submitted a request to Company to utilize 100 MW of Point-to-Point Transmission Service on Company’s Transmission System from BORA-REDB (the “Point-to-Point Transmission Service”);
- D. WHEREAS, Company has completed a System Impact Study and a Facilities Study with respect to the Point-to-Point Transmission Service pursuant to applicable provisions of the OATT;
- E. WHEREAS, the System Impact Study and the Facilities Study identified certain new facilities (as more fully described in this Agreement, including Exhibit B, the “Project”) that are required to be designed, procured and installed in order for Company to provide the Point-to-Point Transmission Service;
- F. WHEREAS, the Parties desire that Company and Customer (as applicable) perform the Work (as such term is defined below) required to complete the Project, all on the terms and subject to the conditions set forth in this Agreement; and
- G. WHEREAS, Company requires Customer to provide security for the Project pursuant to the requirements Section 19.4 of its OATT.

NOW THEREFORE, in consideration of the premises and the mutual covenants and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

AGREEMENT

1. CERTAIN DEFINITIONS.

“Applicable Laws and Regulations” shall mean all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.

“Applicable Reliability Standards” shall mean the requirements and guidelines of the North American Electric Reliability Corporation (“NERC”), the Western Electricity Coordinating Council (“WECC”), and the Balancing Authority Area of the Transmission System to which Customer is directly interconnected.

“Good Utility Practice” shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

“Governmental Authority” shall mean any Federal, state, local, or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include Customer, Company, or any of their respective Affiliates.

“Network Upgrades” shall mean additions, modifications and upgrades to Company’s Transmission System required at or beyond the point at which Customer’s facilities connect with Company’s Transmission System. Network Upgrades are integrated with and support Company’s Transmission System for the general benefit of all users of such Transmission System.

2. TERM; TERMINATION.

2.1. Term. This Agreement shall become effective upon the later of the following: (a) the date of execution by both Parties, or (b) the effective date established by the Federal Energy Regulatory Commission (“FERC”) upon acceptance of this Agreement for filing or the approval by the FERC of this Agreement (such later date being the “Effective Date”), and shall remain in effect until the earlier of (x) the completion of the Work or (y) the earlier termination of this Agreement in accordance with Section 2.2 (the “Term”).

2.2. Termination. This Agreement may be terminated:

(i) by Company, in accordance with Section 4.5 (Revised Cost Estimate; Revised Customer Security; Termination); or

(ii) by Customer, in accordance with Section 12 (Right to Stop Work).

Notwithstanding clauses (i) and (ii) above, any termination of this Agreement (and the effectiveness thereof) shall be subject to acceptance by the FERC.

3. SCOPE OF WORK.

3.1. Project Description and Scope. In order for Company to provide the Service, among other things, each of the Ben Lomond-El Monte 138kV transmission line (circuit #1), the Goshen-Fish Creek-Grace 161 kV transmission line, and the Grace-Oneida-Treasureton 138kV transmission line will require the rebuilding of various structures and reconductoring of various conductor, and each of the Ben Lomond, El Monte, Treasureton, Oneida, Grace and Goshen Substations will require various upgrades for both electrical and protective equipment, as more fully described in Exhibit B.

3.2. Company Responsibilities for Work. Company shall perform the design, procurement and installation of the Project, as described in Exhibit B (collectively, the “Work”).

3.3. Customer Responsibilities for Work. Customer shall not be responsible for any of the Work.

4. OWNERSHIP AND OPERATION; COST ESTIMATE; COST RESPONSIBILITY; SECURITY; TERMINATION.

4.1. Ownership and Operation. Company shall own and operate the Project. Customer shall have no ownership interest in or obligation to operate the Project.

4.2. Cost Estimate; Certain Assumptions.

4.2.1. Cost Estimate. As set forth in Exhibit A, as of the date of this Agreement, Company’s estimated cost of performing the Work is \$63,346,000 (the “Initial Cost Estimate”), all of which constitute Network Upgrade costs.

4.2.2. Certain Assumptions. The Initial Cost Estimate includes engineering, labor, materials, subcontracts and applicable overheads, and is based, in part, on the following assumptions:

(i) the Initial Cost Estimate is based on calendar year 2021 dollars;

(ii) if construction is delayed, the Initial Cost Estimate likely will need to be adjusted;

- (iii) no exceptional site preparation will be required;
 - (iv) the Project will be installed during normal business hours and will not require schedule compression or overtime; and
 - (v) no new permitting or real property rights will be required.
- 4.3. Cost Responsibility. On the terms and subject to the conditions set forth in this Agreement, Company agrees to pay the amount of the Initial Cost Estimate or any Revised Cost Estimate, all of which are Network Upgrade costs.

4.4. Customer Security.

4.4.1. The Parties acknowledge that Customer previously has (a) executed a Service Agreement with Company (or requested the filing by Company of an unexecuted Service Agreement) for the Point-to-Point Transmission Service, and (b) in accordance with Section 19.4 of the OATT, delivered to Company either (i) a letter of credit meeting the requirements of Section 2(a) of Attachment L to the OATT, (ii) a guaranty meeting the requirements of Section 2(b) of Attachment L to the OATT, or (iii) other reasonable form of security acceptable to Company (the "Customer Security"), in each case, in an amount equivalent to the Initial Cost Estimate consistent with commercial practices as established by the Uniform Commercial Code.

4.4.2. The Parties agree that the Customer Security, and any Revised Customer Security (as such term is defined below), shall be available to Company to settle obligations of Customer pursuant to Section 4.5 and Section 12).

4.4.3. The Customer Security, and any Revised Customer Security, shall remain outstanding and in full force and effect until the earlier of (a) the date as of which all of the Work has been completed and the Project has been installed, or (b) the date upon which Company has received full payment by Customer for all Project Costs, Enhanced Project Costs, Stop-Work Project Costs or Enhanced Stop-Work Project Costs (as such terms are defined below), as applicable, in accordance with this Agreement (the "Security Termination Date").

4.4.4. Upon the occurrence of the Security Termination Date, (a) in the case of a letter of credit, Company shall, within fifteen (15) calendar days after the Security Termination Date, return the remaining balance of such letter of credit to Customer, (b) in the case of a guaranty, Company and Customer shall, within fifteen (15) calendar days after the Security Termination Date, use commercially reasonable efforts to execute and deliver a customary and mutually acceptable termination agreement with respect to such guaranty, and (c) in the case of other security, the Parties shall, promptly following the Security Termination Date, use commercially reasonable efforts to return, terminate or otherwise cancel such other security on terms mutually acceptable to the Parties.

4.5. Revised Cost Estimate; Revised Customer Security; Termination.

4.5.1. During the Term, if Company determines that the cost of performing the Work may exceed the Initial Cost Estimate, Company shall, within thirty (30) calendar days after making such determination, deliver a written notice to Customer (a "Revised Cost and Security Notice") that includes Company's revised estimated cost of performing the Work (a "Revised Cost Estimate"), together with a request that Customer deliver to Company an additional or replacement (a) letter of credit meeting the requirements of Section 2(a) of Attachment L to the OATT, (b) guaranty meeting the requirements of Section 2(b) of Attachment L to the OATT or (c) other reasonable form of security acceptable to Company, in an additional or revised amount equivalent to the Revised Cost Estimate (the "Revised Customer Security").

4.5.2. Within fifteen (15) calendar days after Company delivers to Customer the Revised Cost and Security Notice, Customer shall deliver to Company the Revised Customer Security. Company shall have no obligation to perform or to continue to perform any of the Work until such time that Customer delivers to Company the Revised Customer Security. Upon Customer's delivery of the Revised Customer Security to Company, the Parties agree that Exhibit A (Estimated Network Upgrade Costs) shall be amended to reflect the Revised Cost Estimate, and corresponding amendments (if any) shall be made to Exhibit B (Estimated Scope of Work) and Exhibit C (Estimated Schedule and Milestones).

4.5.3. If Customer fails to deliver the Revised Customer Security to Company within such fifteen (15) calendar day period, Company shall have the right to terminate this Agreement upon written notice to Customer (a "Termination Notice"); provided that Customer shall have a period of fifteen (15) calendar days after the date of the Termination Notice (the "Cure Period") in which to deliver the Revised Customer Security. If Customer fails to deliver the Revised Customer Security within the Cure Period, this Agreement shall, without further action by either Party (but subject to acceptance by the FERC pursuant to Section 2.2), automatically terminate as of the date on which the Cure Period expires, and Customer shall be liable to Company for the Project Costs or the Enhanced Project Costs, as applicable, subject to Section 4.7.

4.6. Project Costs; Enhanced Project Costs. Promptly following the expiration of the Cure Period, Company shall determine, in its sole discretion, acting reasonably, if the Work can be promptly stopped without adversely affecting the safety and reliability of Company's Transmission System.

4.6.1. If Company determines that the Work can be promptly stopped without adversely affecting the safety and reliability of Company's Transmission System: (a) Company shall promptly stop all Work, and (b) Customer shall pay to Company an amount equal to the sum of (x) the costs incurred by Company with respect to the Work as of the date on which the Cure Period expires, plus (y) interest on the

costs described in clause (x) above, as calculated in accordance with the methodology set forth in the FERC's regulations at 18 C.F.R. § 35.19a(a)(2)(iii), in each case, as determined by Company and invoiced to Customer (collectively, the "Project Costs"). Customer shall pay, by wire transfer of immediately available funds to an account specified by Company, such Project Costs within thirty (30) calendar days after receipt of such invoice from Company. If Customer fails to pay such Project Costs within such thirty (30) calendar day period, Company shall be entitled to pursue all rights and remedies available to it at law or in equity, including the right to draw on the Customer Security in an amount equal to the Project Costs.

4.6.2. If Company determines that the Work *cannot* be promptly stopped without adversely affecting the safety and reliability of Company's Transmission System: (a) Company shall, as soon as reasonably practical and in accordance with Applicable Laws and Regulations, Applicable Reliability Standards and Good Utility Practice, stop all Work, and (b) Customer shall pay to Company an amount equal to the sum of (x) the costs incurred by Company with respect to the Work as of the date on which the Cure Period expires, plus (y) the costs incurred by Company after the date on which the Cure Period expires with respect to all system improvements or upgrades, including Network Upgrades, that Company determines are reasonably necessary to maintain the safety and reliability of Company's Transmission System, plus (z) interest on the costs described in clauses (x) and (y) above, as calculated in accordance with the methodology set forth in the FERC's regulations at 18 C.F.R. § 35.19a(a)(2)(iii), in each case, as determined by Company and invoiced to Customer (collectively, the "Enhanced Project Costs"). Customer shall pay, by wire transfer of immediately available funds to an account specified by Company, such Enhanced Project Costs within thirty (30) calendar days after receipt of such invoice from Company. If Customer fails to pay such Enhanced Project Costs within such thirty (30) calendar day period, Company shall be entitled to pursue all rights and remedies available to it at law or in equity, including the right to draw on the Customer Security in an amount equal to the Enhanced Project Costs.

- 4.7. Refund Matters. Company shall make commercially reasonable efforts to recover the Project Costs or Enhanced Project Costs, as applicable, through its rates. The amount of the Project Costs or the Enhanced Project Costs, as applicable, whether paid directly by Customer to Company or by Company having drawn on the Customer Security, shall be refunded to Customer no later than six (6) calendar months after both of the following having occurred: (a) all applicable state regulatory authorities have approved the inclusion of the Project Costs or the Enhanced Project Costs, as applicable, in Company's retail rates; and (b) Company has included the Project Costs or the Enhanced Project Costs, as applicable, in its transmission formula rate under the OATT for a complete Annual Update cycle (including projection and true-up) in accordance with Attachment H-2 to the OATT, without successful challenge by Transmission Customers or other OATT customers resulting in such Project Costs or Enhanced Project Costs, as applicable, not being included in Company's transmission formula rate (collectively, the

“Refund Conditions”). For the avoidance of doubt, in the event that both Refund Conditions have not been met, no Project Costs or Enhanced Project Costs, as applicable, shall be refunded to Customer.

5. TAXES.

5.1. Customer Payments Not Taxable. The Parties intend that all payments or property transfers made by Customer to Company for the installation of the Project shall be non-taxable, either as contributions to capital, or as a refundable advance, in accordance with the Internal Revenue Code (“IRC”) and any applicable state income tax laws and shall not be taxable as contributions in aid of construction or otherwise under the IRC and any applicable state income tax laws. For purposes of this Section 5, payments made by Customer to Company shall include a draw by Company on Customer Security or Revised Customer Security pursuant to Section 4.

5.2. Indemnification for the Cost Consequences of Current Tax Liability Imposed Upon Company. Notwithstanding Section 5.1, Customer shall protect, indemnify, and hold harmless Company from the cost consequences of any current tax liability imposed against Company as the result of payments or property transfers made by Customer to Company under this Agreement for the Project, as well as any interest and penalties, other than interest and penalties attributable to any delay caused by Company.

Company shall not include a gross-up for the cost consequences of any current tax liability in the amounts it charges Customer under this Agreement unless (i) Company has determined, in good faith, that the payments or property transfers made by Customer to Company should be reported as income subject to taxation or (ii) any Governmental Authority directs Company to report payments or property as income subject to taxation; provided, however, that Company may require Customer to provide security in an amount calculated in the manner set forth in Section 5.3, in a form reasonably acceptable to Company. Customer shall reimburse Company for such costs on a fully grossed-up basis, in accordance with Section 5.3, within thirty (30) calendar days of receiving written notification from Company of the amount due, including detail about how the amount was calculated.

5.3. Tax Gross-up Amount. Customer’s liability for the cost consequences of any current tax liability under this Section 5 shall be calculated on a fully grossed-up basis. Except as may otherwise be agreed to by the Parties, this means that Customer will pay Company, in addition to the amount paid for the Project, an amount equal to (1) the current taxes imposed on Company (“Current Taxes”) on the excess of (a) the gross income realized by Company as a result of payments or property transfers made by Customer to Company under this Agreement (without regard to any payments under this Section 5) (the “Gross Income Amount”) over (b) the present value of future tax deductions for depreciation that will be available as a result of such payments or property transfers (the “Present Value Depreciation Amount”), plus (2) an additional amount sufficient to permit Company to receive and retain, after the payment of all Current Taxes, an amount equal to the net amount described in clause (1).

For this purpose, (1) Current Taxes shall be computed based on Company's composite Federal and state tax rates at the time the payments or property transfers are received and Company will be treated as being subject to tax at the highest marginal rates in effect at that time (the "Current Tax Rate"), and (2) the Present Value Depreciation Amount shall be computed by discounting Company's anticipated tax depreciation deductions as a result of such payments or property transfers by Company's current weighted average cost of capital. Thus, the formula for calculating Customer's liability to Company pursuant to this Section 5 can be expressed as follows:

(Current Tax Rate x (Gross Income Amount — Present Value of Tax Depreciation)) / (1-Current Tax Rate).

5.4. Contests. In the event any Governmental Authority determines that Company's receipt of payments or property constitutes income that is subject to taxation, Company shall notify Customer, in writing, within thirty (30) calendar days of receiving notification of such determination by a Governmental Authority.

5.5. Refund. In the event that (a) any legislative change or administrative announcement, notice, ruling or other determination makes it reasonably clear to Company in good faith that any amount paid or the value of any property transferred by Customer to Company under the terms of this Agreement is not taxable to Company, (b) any abatement, appeal, protest, or other contest results in a determination that any payments made by Customer to Company are not subject to Federal income tax, or (c) if Company receives a refund from any Governmental Authority for any overpayment of tax attributable to any payment or property transfer by Customer to Company pursuant to this Agreement, Company shall promptly refund to Customer the following:

- (i) any payment made by Customer under this Section 5 for taxes that is attributable to the amount determined to be non-taxable, together with interest thereon;
- (ii) interest on any amounts paid by Customer to Company for such taxes which Company did not submit to the Governmental Authority, calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. § 35.19a(a)(2)(iii) from the date payment was made by Customer to the date Company refunds such payment to Customer; and
- (iii) with respect to any such taxes paid by Company, any refund or credit Company receives or to which it may be entitled from any Governmental Authority, interest (or that portion thereof attributable to the payment described in clause (i), above) owed to Company for such overpayment of taxes (including any reduction in interest otherwise payable by Company to any Governmental Authority resulting from an offset or credit); provided, however, that Company will remit such amount promptly to Customer only after and to the extent that Company has received a tax refund, credit, or offset from any Governmental Authority for any applicable overpayment of income tax related to Company's Project.

The intent of this provision is to leave the Parties, to the extent practicable, in the event that no taxes are due with respect to any payment for the Project hereunder, in the same position they would have been in had no such tax payments been made.

6. PROJECT SCHEDULE. As of the date of this Agreement, the Parties have agreed to the Estimated Schedule and Milestones attached as Exhibit C for the completion of the Project. All Project schedule milestones shall be best estimates of the time required to complete Company's task at the time the schedule was developed.

7. STANDARD OF WORK. Each Party shall perform all of its obligations under this Agreement in accordance with Applicable Laws and Regulations, Applicable Reliability Standards and Good Utility Practice. To the extent a Party is required to take, or is prevented from or limited in taking, any action by any of the foregoing, such Party shall not be deemed to be in breach of this Agreement for compliance therewith.

8. [INTENTIONALLY DELETED].

9. INSPECTION. Customer may, at its discretion and expense, inspect Company's construction work in progress for the Project upon reasonable notice to, and with supervision by, Company.

10. TESTING. Before the new facilities required for the Project are energized, such new facilities shall be tested by Company to ensure their safe and reliable operation in accordance with Good Utility Practice, Applicable Laws and Regulations and Applicable Reliability Standards. If testing indicates that modifications are required, Company shall be responsible for the cost of all such modifications in accordance with Section 4.3 above, and Company may deliver to Customer a Revised Cost Estimate for the Project to reflect such modifications in accordance with Section 4.5.

11. ACCESS. Either Party shall grant the other Party reasonable escorted access to the Project consistent with such access rights as are established in prior agreements between the Parties, provided that each Party provides reasonable notice and complies with the other Party's safety and security rules.

12. RIGHT TO STOP WORK.

12.1. Right to Stop Work; Termination. During the Term, Customer reserves the right, upon thirty (30) days' advance written notice to Company, to require Company to stop all Work on the Project (a "Stop-Work Notice"). If Customer delivers a Stop-Work Notice to Company, this Agreement shall, without further action by either Party (but subject to acceptance by the FERC pursuant to Section 2.2), automatically terminate as of the date of the Stop-Work Notice and Customer shall be liable to Company for the Stop-Work Project Costs or the Enhanced Stop-Work Project Costs (as each such term is below).

12.2. Stop-Work Project Costs; Enhanced Stop-Work Project Costs. Upon Company's receipt of a Stop-Work Notice, Company shall determine, in its sole and reasonable

discretion, if the Work can be promptly stopped without adversely affecting the safety and reliability of Company's Transmission System.

12.2.1. If Company determines that the Work can be promptly stopped without adversely affecting the safety and reliability of Company's Transmission System: (a) Company shall promptly stop all Work, and (b) Customer shall pay to Company an amount equal to the sum of (x) the costs incurred by Company with respect to the Work as of the date of the Stop-Work Notice, plus (y) interest on the costs described in clause (x) above, as calculated in accordance with the methodology set forth in the FERC's regulations at 18 C.F.R. § 35.19a(a)(2)(iii), in each case, as determined by Company and invoiced to Customer (collectively, the "Stop-Work Project Costs"). Customer shall pay, by wire transfer of immediately available funds to an account specified by Company, such Stop-Work Project Costs within thirty (30) calendar days after receipt of such invoice from Company. If Customer fails to pay the Stop-Work Project Costs within such thirty (30) calendar day period, Company shall be entitled to pursue all rights and remedies available to it at law or in equity, including the right to draw on the Customer Security or the Revised Customer Security, as applicable, in an amount equal to the Stop-Work Project Costs.

12.2.2. If Company determines that the Work *cannot* be promptly stopped without adversely affecting the safety and reliability of Company's Transmission System: (a) Company shall, as soon as reasonably practical and in accordance with Applicable Laws and Regulations, Applicable Reliability Standards and Good Utility Practice, stop all Work, and (b) Customer shall pay to Company an amount equal to the sum of (x) the costs incurred by Company with respect to the Work as of the date of the Stop-Work Notice, plus (y) the costs incurred by Company after the date of the Stop-Work Notice with respect to all system improvements or upgrades, including Network Upgrades, that Company determines are reasonably necessary to maintain the safety and reliability of Company's Transmission System, plus (z) interest on the costs described in clauses (x) and (y) above, as calculated in accordance with the methodology set forth in the FERC's regulations at 18 C.F.R. § 35.19a(a)(2)(iii), in each case, as determined by Company and invoiced to Customer (collectively, the "Enhanced Stop-Work Project Costs"). Customer shall pay, by wire transfer of immediately available funds to an account specified by Company, such Enhanced Stop-Work Project Costs within thirty (30) calendar days after receipt of such invoice from Company. If Customer fails to pay the Enhanced Stop-Work Project Costs within such thirty (30) calendar day period, Company shall be entitled to pursue all rights and remedies available to it at law or in equity, including the right to draw on the Customer Security or the Revised Customer Security, as applicable, in an amount equal to the Enhanced Stop-Work Project Costs.

12.3. Refund Matters. Company shall make commercially reasonable efforts to recover the Stop-Work Project Costs or Enhanced Stop-Work Project Costs, as applicable, through its rates. The amount of the Stop-Work Project Costs or the Enhanced Stop-Work Project

Costs, as applicable, (whether paid directly by Customer to Company or by Company having drawn on the Customer Security or the Revised Customer Security, as applicable) shall be refunded to Customer no later than six (6) calendar months after both of the following having occurred: (a) all applicable state regulatory authorities have approved the inclusion of the Stop-Work Project Costs or the Enhanced Stop-Work Project Costs, as applicable, in Company's retail rates; and (b) Company has included the Stop-Work Project Costs or the Enhanced Stop-Work Project Costs, as applicable, in its transmission formula rate under the OATT for a complete Annual Update cycle (including projection and true-up) in accordance with Attachment H-2 to the OATT, without successful challenge by Transmission Customers or other OATT customers resulting in such Stop-Work Project Costs or Enhanced Stop-Work Project Costs, as applicable, not being included in Company's transmission formula rate (collectively, the "Stop-Work Refund Conditions"). For the avoidance of doubt, in the event that both Stop-Work Refund Conditions have not been met, no Stop-Work Project Costs or Enhanced Stop-Work Project Costs, as applicable, shall be refunded to Customer.

13. GOVERNING LAW. Enforcement or interpretation of this Agreement shall be in the federal courts sitting in the State of Idaho, and all parties hereby submit to the jurisdiction of said courts for the stated purpose. Furthermore, this Agreement shall be governed by and construed in accordance with the laws of the State of Idaho.

14. NO PARTNERSHIP. This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

15. ASSIGNMENT. Company may at any time assign its rights and delegate its obligations under this Agreement, in whole or in part, including, without limitation, transferring its rights and obligations under this Agreement to any: (i) Affiliate; (ii) successor in interest with respect to the Project; or (iii) corporation or any other business entity in conjunction with a merger, consolidation, or other business reorganization to which Company is a party. Affiliate of Company includes any entity in which Berkshire Hathaway, Inc. owns more than a 5% interest, over which Berkshire Hathaway exercises management control. Should such assignment take place, Company will provide written notice to Customer. Customer shall not assign its rights, nor delegate its obligations, under this agreement without the prior written consent of Company, which shall not be unreasonably withheld, and any attempted assignment, delegation or other transfer in violation of this restriction shall be void.

16. PROVISIONAL REMEDIES. Either Party may seek provisional legal remedies, if in such Party's judgment such action is necessary to avoid irreparable damage or preserve the status quo.

17. ENTIRE CONTRACT. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and there are no oral or written understandings, representations, or commitments of any kind, express or implied, which are not expressly set forth herein.

18. NOTICES. Any correspondence regarding this Agreement shall be directed to the appropriate party (or parties) as shown below:

Customer: Michael McWilliams
Director, Transmission
Powerex Corp.
Suite 1300, 666 Burrard Street
Vancouver, BC, V6C 2X8

Company: Vice President, Transmission Services
825 NE Multnomah St., Suite 1600
Portland, OR 97232

19. PAYMENT. Except as otherwise provided in this Agreement, all payments shall be sent to:

US Mail Deliveries: Company Transmission
P.O. Box 2757
Portland, OR 97208

Other Deliveries: Company Transmission
Attn: Central Cashiers
825 NE Multnomah St., Suite 550
Portland, OR 97232

20. INDEMNIFICATION. Customer shall indemnify and hold harmless Company, including its officers, employees, contractors and agents (collectively, the "Indemnified Parties"), from and against any and all actual or alleged liability, loss, damage, claims, actions, costs and expenses of any nature, including court costs and attorneys' fees (individually, a "Loss" and collectively, "Losses"), arising in any way in connection with, or related to the Indemnified Parties' performance of Work and other obligations under this Agreement, excluding any third-party claims directly attributable to the sole negligence of the Indemnified Parties. Customer's indemnification obligations set forth herein shall not be limited by workers' compensation, disability, or employee benefit laws applicable to Customer or any Indemnified Party. At the request of an Indemnified Party, Customer shall defend any action, claim, or suit asserting a Loss that might be covered by this indemnity. If an Indemnified Party makes such election under the preceding sentence, (a) counsel for Customer who shall conduct the defense of such action, claim, or suit shall be reasonably satisfactory to the Indemnified Party; (b) the Indemnified Party may participate in such defense; and (c) Customer may not settle any such action, claim, or suit without the consent of the Indemnified Party, such consent not to be unreasonably withheld or delayed. Customer shall pay all costs and expenses that may be incurred by any Indemnified Party in enforcing this indemnity and defense agreement, including attorneys' fees actually paid by any Indemnified Party.

21. LIMITATION OF LIABILITY. Except as otherwise expressly provided in this Agreement, each Party's liability to the other Party for any Loss relating to or arising from any act or omission

in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any indirect, special, consequential, or punitive damages, except as specifically authorized by this Agreement.

22. FORCE MAJEURE.

22.1. A Party shall not be subject to any liability or damages for inability to meet its obligations under this Agreement to the extent that such failure shall be due to causes beyond the control of the Party, including, but not limited to the following: (a) the operation and effect of any new or modified rules, regulations, and orders promulgated by FERC, any applicable state public utility commission, or any Governmental Authority, including NERC and WECC (so long as the claiming party has not applied for or assisted in the application for, and has opposed where and to the extent reasonable, such governmental action); (b) restraining order, injunction, or similar decree of any court; and (c) any Force Majeure event.

22.2. "Force Majeure" shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military, or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure event does not include acts of negligence or intentional wrongdoing by the Party claiming Force Majeure.

22.3. The Party claiming Force Majeure shall make every reasonable attempt to remedy the cause thereof as diligently and expeditiously as possible. Except for the obligation to pay amounts owed when due, time periods for performance obligations of either Party herein shall be extended for the period during which Force Majeure was in effect.

23. SUCCESSORS. This Agreement will be binding upon the Parties and will inure to the benefit of their respective successors.

24. SEVERABILITY. If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (a) such portion or provision shall be deemed separate and independent, (b) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (c) the remainder of this Agreement shall remain in full force and effect.

25. 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 AGREEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE, OR TO REQUEST THE CONSOLIDATION OF, 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.

26. MULTIPLE COUNTERPARTS. This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

27. CONTRACTORS AND SUBCONTRACTORS. Nothing in this Agreement shall prevent Company from utilizing the services of any third party contractor or subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that Company shall require any third party contractor and subcontractor to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such third party contractor and subcontractor.

28. NO THIRD-PARTY BENEFICIARIES. This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

29. SURVIVAL. All payment obligations and liabilities incurred before the termination or expiration of this Agreement will survive its termination or expiration.

30. MODIFICATIONS OR AMENDMENTS. Except as set forth in Section 4.5.2, no modification or amendment of any provision of this Agreement shall be effective unless set forth in a written document signed by an authorized representative of each Party. All modifications or amendments to this Agreement, if originally filed at FERC, will be filed by Company as an amended and restated agreement.

31. RECITALS. The above stated recitals are incorporated into and made part of this Agreement by this reference to the same extent as if these recitals were set forth in full at this point.

32. WAIVER. Waiver of any right, privilege, claim, obligation, condition, or default shall be in writing and signed by the waiving Party. No waiver by a Party of any breach of this Agreement shall be a waiver of any preceding or succeeding breach, and no waiver by a Party of any right under this Agreement shall be construed as a waiver of any other right.

33. DISPUTE RESOLUTION.

33.1. Submission. In the event either Party has a dispute, or asserts a claim, that arises out of or in connection with this Agreement, such Party shall provide the other Party with written notice of the dispute or claim (a "Notice of Dispute"). Such dispute or claim shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Party. In the event the designated representatives are unable to resolve the claim or dispute through unassisted or assisted negotiations within thirty (30) calendar days of the other Party's receipt of the Notice of Dispute, such claim or dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In the event the Parties do not agree to submit such claim or

dispute to arbitration, each Party may exercise whatever rights and remedies it may have at law or in equity.

33.2. Arbitration Procedures. Any arbitration initiated under these procedures shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) calendar days of the submission of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) calendar days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association.

33.3. Arbitration Decisions. Unless otherwise agreed in writing by the Parties, the arbitrator(s) shall render a decision within ninety (90) calendar days of appointment and shall notify the Parties in writing of such decision and the reasons therefore. The arbitrator(s) shall be authorized only to interpret and apply the provisions of this Agreement and shall have no power to modify or change any provision of this Agreement in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties (absent manifest error), and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute Resolution Act. The final decision of the arbitrator must also be filed with FERC if it affects jurisdictional rates, terms, and conditions of service.

33.4. Costs. Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (a) the cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or (b) one-half the cost of the single arbitrator jointly chosen by the Parties.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement effective as of the day and year first herein above written.

COMPANY

POWEREX CORP

Rick Vail

Digitally signed by Rick Vail
Date: 2022.02.08 10:50:09 -08'00'

Signature

Signature

Rick Vail

Printed Name of Signor

Tom Bechard

Printed Name of Signor

VP, Transmission

Title of Signor

President and CEO

Title of Signor

February 8, 2022

Date

January 28, 2022

Date

Exhibit A
Estimated Network Upgrade Costs

Subordinate Area	Network Upgrade Cost
D47 & D74 Grace — Oneida — Treasureton 138kV	\$18,779,000
Ben Lomond Substation	\$179,000
El Monte Substation	\$179,000
Goshen Substation	\$87,000
Oneida Substation	\$542,000
Grace Substation	\$87,000
Treasureton Substation	\$87,000
Ben Lomond — El Monte #1 138kV Line	\$7,724,000
Goshen — Fish Creek — Grace 161kV	\$35,682,000
Grand Total	\$63,346,000

Exhibit B

Estimated Scope of Work

All work to be completed by Company, unless explicitly stated otherwise.

Communications Additions

Provide circuit channels for the line differential scheme between El Monte and Ben Lomond substations.

SCADA Additions

Minor work is required in the Monarch database at Goshen 161 kV, Grace, Oneida , Ben Lomond and El Monte substations.

Substation Additions

- Ben Lomond Substation

Conductor will be replaced in the bay for the 138 kV line to El Monte. New relay panel will be installed in the control house.

- El Monte Substation

Conductor will be replaced in the bay for the 138 kV line to Ben Lomond. New relay panels will be installed in the control house.

- Treasureton Substation

Conductor will be replaced in the bay for the 138 kV line to Oneida.

- Oneida Substation

Three 138 kV switches will be replaced. Conductor will be replaced in the bays for the 138 kV lines to Grace and Treasureton. The 138 kV bus conductor will be replaced.

- Grace Substation

Conductor will be replaced in the bay for the 138 kV line to Oneida and the 161 kV line to Goshen.

- Goshen Substation

Conductor will be replaced in the bay for the 161 kV line to Grace.

Transmission Additions

Transmission line improvements have been identified that will increase the line rating of the following three transmission lines.

- Ben Lomond — El Monte 138kV #1:

The first 7.95 miles of this line measured from the Ben Lomond is a double circuit steel lattice tower segment that will be reconducted with a high-temperature / low-sag conductor. The remaining 6.05 miles of this line is a combination of horizontal configured 2-pole wood construction and single pole wood and steel, double circuit construction. This segment will be rebuilt with a higher capacity ACSR type conductor and the structures that require replacement will be rebuilt.

- Goshen — Fish Creek — Grace 161kV:

This existing transmission line will be reconducted using a higher capacity ACSR type conductor, and the structures that require replacement will be rebuilt.

- Grace — Oneida — Treasureton 13.8kV:
This existing transmission line will be reconducted using a higher capacity ACSR type conductor, and the structures that require replacement will be rebuilt.

Exhibit C
Estimated Schedule and Milestones

The estimated schedule and milestones are driven by the below timeframes which may be adjusted through the course of the Project. If there is a delay in any of the below activities, there will be, at a minimum, a day-for-day slip in the entire schedule. Any delays in the Project have the potential to affect the entire schedule.

Milestones	Estimated Date
Execute Construction Agreement	January 31, 2022
Begin Engineering	July 25, 2022
Begin Procurement	November 21, 2022
Engineering design completed	May 22, 2023
Construction Begins	August 21, 2023
Construction Complete	January 3, 2025
Estimated Commercial Operation	January 31, 2025