



Portland General Electric Company

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Assistant General Counsel

May 23, 2011

Via Electronic Filing and U.S. Mail

Oregon Public Utility Commission

Attention: Filing Center

550 Capitol Street NE, #215

PO Box 2148

Salem OR 97308-2148

Re: UM 1535

Attention Filing Center:

Pursuant to the procedural schedule set by ALJ Power in his April 15th Prehearing Conference Memorandum, PGE hereby submits an original and three copies of its Final Draft RFP to the Commission for approval. Full copies of Appendices E through H are provided in separate PDFs.

This is being filed by electronic mail with the Filing Center. An extra copy of the cover letter is enclosed. Please date stamp the extra copy and return to me in the envelope provided.

Thank you in advance for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Denise", written in a cursive style.

V. DENISE SAUNDERS
Assistant General Counsel

VDS:cbm

Enclosures

cc: UM 1535 Service List

Portland General Electric Co.

REQUEST FOR PROPOSALS

Capacity Power Supply Resources

May 23, 2011



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Purpose and Scope

Portland General Electric Company (PGE), an investor-owned electric utility in Oregon, is soliciting bids through this Request for Proposals (RFP) for capacity power products described below. In November 2009, PGE filed with the Oregon Public Utilities Commission (OPUC) its 2009 *Integrated Resource Plan (IRP)*, identifying specific planning assumptions and resource needs for upcoming years. Following meetings and discussions with various stakeholders PGE filed an addendum to its IRP in April 2010. The OPUC acknowledged PGE's IRP Action Plan as contained in the Addendum in November, 2010. The IRP and Addendum are available on PGE's Internet site at:

<http://www.portlandgeneral.com/irp>

Resource Targets and Structures

As described in its acknowledged *IRP*, PGE is seeking to acquire new resources that will fill a dual function of providing capacity to maintain supply reliability during peak demand periods and other contingencies, while also providing needed flexibility to address variable load requirements and increasing level of intermittent energy resources (due to the nature of the need only physical energy products will be considered):

- Target of 200 MW of flexible, year-round capacity resources:
 - Tolling service.
 - Firm capacity purchase.
 - Build-own-transfer
- Target of 200 MW of bi-seasonal (summer and winter), limited duration peaking supply
 - Peak tolling.
 - Daily physical capacity.
 - Daily exchange.
- Target of 150 MW of winter-only peaking supply
 - Peak tolling.
 - Daily physical capacity.
 - Daily exchange.

Consistent with PGE's acknowledged IRP preferred portfolio, which includes no new coal resources, PGE will not accept as part of this RFP, proposals whereby the seller passes on the environmental risks associated with coal-fired generation.

The following types of technology are most likely to meet PGE's Flexible Capacity needs:

- Simple Cycle Combustion Turbines (Aero derivatives)

- Reciprocating Engine
- Pumped Hydro Storage
- Hydro based generation with pond capability
- Compressed air with Simple Cycle Combustion Turbines

In addition to the resources above, PGE believes duct firing on a CCCT would qualify for the Seasonal Capacity products.

These lists are not intended to limit participation. Bidders are encouraged to contact the IE via the RFP website PortlandGeneralRFP.accionpower.com to discuss other specific technologies that might serve PGE's need. .

This competitive RFP is being conducted in consultation with the OPUC and other participants in PGE's IRP public process, and in accordance with OPUC Order 06-446 (UM-1182), dated August 10, 2006 ("Competitive Bidding Guidelines" or "Guidelines").

About PGE

Headquartered in Portland, Oregon, PGE serves approximately 821,000 retail customers within a 4,000 square mile service territory (see **Figure 1**).

- Service territory population 1.7 million, about 44% of the state's population.
- Serves 52 cities, the largest being Portland and Salem.
- 25,000 miles of transmission and distribution lines.
- Net plant-in-service, \$4.1 billion.
- Expected average annual demand in 2015, approximately 2,624 MWa.
- Expected peak load in 2015, 4,107 MW.
- Approximately 1,930 MWa of owned generation for resource planning purposes, including eight hydro generation facilities, three gas-fired thermal plants, the new Biglow Canyon wind farm, a majority ownership of one coal-fired thermal plant, and joint ownership in two units of another coal plant facility. We also hold long-term contracts for energy from the Mid-Columbia hydroelectric projects on the Columbia River and two wind farms, and regularly enter into short and mid-term wholesale power supply contracts.



Figure 1. PGE Service Territory

For more information, see PGE's Internet site: www.portlandgeneral.com.

RFP Schedule

The estimated schedule listed below may be revised as the RFP process unfolds:

- April 5, 2011 – OPUC approves Accion Group as Independent Evaluator (IE).
- April 14, 2011 – Provide draft Capacity RFP to IE.
- April 22, 2011 – Provide draft Capacity RFP to all interested parties.
- May 11 & 12, 2011 – Stakeholder and Bidder pre-RFP workshops.
- May 23, 2011 – PGE submits final draft Capacity RFP to OPUC for approval.
- June 3, 2011 – IE submits assessment of the final draft Capacity RFP to OPUC.
- June 22, 2011 – Parties and Staff submit comments of final draft Capacity RFP.
- July 8, 2011 – PGE submits reply comments.
- July 21, 2011 – OPUC Staff report due
- July 26, 2011 – OPUC approves PGE draft Capacity RFP (tentative).
- July 26, 2011 – PGE issues Capacity RFP.
- August 19, 2011 – PGE Benchmark Bid (self build submittal) due.
- September 2, 2011 – RFP responses due.
- November 2, 2011* – PGE, in conjunction with the IE identifies initial short list.
- December 6, 2011* – PGE, in conjunction with the IE selects final short list of bids.
- December 2011* – IE issues final closing report to OPUC.

**Note – these dates are subject to change depending on the quantity and complexity of bids received.*

Outside of this RFP process, PGE is also planning to issue separate RFPs for RPS utility scale renewable, and baseload gas-fired generation resources.

Guidelines for Submitting Proposals

This section describes the guidelines Bidders must follow when submitting proposals.

Registration on PGE's RFP Web Site

PGE's RFP website, as further described below, is intended to be the conduit for communication and bid materials between bidders and PGE. All prospective bidders, stakeholders, and other interested parties are required to register on PGE's RFP web site at PortlandGeneralRFP.accionpower.com. The website is secure and password protected so that confidential information can be posted and exchanged via the site. Bidders are required to submit their bids online using the bid form available upon registration.

Other features of the site include:

- The ability to download all public RFP documents, including copies of this document and all related contracts and appendices.
- An announcement board for posting of information to the public and Bidders.
- The capability for Bidders to post questions that are available to all users, and comments that are confidential.
- Confidential bid folders for each bid, for the retention and exchange of bid-specific data.
- Confidential evaluation folders for the retention of data provided by the PGE Evaluation Team, for use during regulatory review.

Limited information regarding the RFP will also be available on PGE's corporate web site at: www.portlandgeneral.com/RFP

Procedural and Commercial Questions

All correspondence regarding procedural questions, bid submissions and questions related to product characteristics, terms and conditions should be submitted to PGE's RFP website at PortlandGeneralRFP.accionpower.com. PGE will post answers to questions from bidders, stakeholders, and other interested parties on the site. Registered users will be notified by e-mail when the "Q&A" section of this Web site is updated, and answers are posted to questions.

Submitting Bids

Parties submitting bids under this RFP (Bidders) may submit bids responding to one or more of the capacity power products. All bids must be submitted online using the bid form provided on the RFP website, PortlandGeneralRFP.accionpower.com, no later 4:00 p.m. Pacific Time on

September 2, 2011. In addition, one complete hard copy of bids must be *postmarked* by 4:00 p.m. Pacific Time on September 2, 2011. All hard copy bids received will be date stamped, and stored in a secured area. Bids must be sealed, and sent to the IE at:

Accion Group,
244 North Main Street
Concord, NH 03301

The online bid form may be edited at will only until the bid submission deadline. At 4:00 p.m. Pacific Time on September 2, 2011, bid forms will be closed to edits, and will be considered to be final submissions. After this time, any bid forms not submitted, will be de-activated, and the corresponding bid books will be closed.

In the event that the Bidder discovers an error or omission in the bid after shipping hard copies, Bidder must note any changes in the electronic filing and such changes must be posted by 4:00 PM on September 2, 2011. In the event of differences between the hard copy and electronic copy, the electronic version shall control. In addition, one corrected hard copy must be received by the IE within three business days of the above filing deadline, or by 4:00 PM Pacific Time on September 8, 2011.

Bid Fee

To help defray costs of the Independent Evaluator and encourage high quality bids and Bidders, all Bidders in this RFP will pay a non-refundable bid fee of \$10,000 upon submission of its bid. A bid may consist of one base proposal in addition to two alternatives for the same bid fee. The alternatives may consist of a different bid size, contract term, in-service date and/or pricing structure for the same resource. In addition, bidders will have the option of submitting up to three additional alternatives for a fee of \$1,000 per alternative. A proposal for a different resource, at a different site or using a different technology will be considered a separate proposal and will be subject to a separate bid fee. Fees are to be remitted via electronic funds transfer to PGE's accounts payable on the RFP website. Bidders may submit multiple base bid proposals in response to this RFP. The IE, in consultation with PGE shall confirm whether a Bidder's submission constitutes one or more proposals, for purposes of assessing bid fees.

Submitting Confidentiality and Non-Disclosure Agreements

The Confidentiality and Non-Disclosure Agreements are available for completion at PortlandGeneralRFP.accionpower.com (and included as Appendix K). Bidders are required to complete and electronically sign the confidentiality agreement prior to the bid submission deadline (4:00 PM on September 2, 2011). Bidders who desire to have PGE execute the confidentiality agreement prior to bid submission must complete their signed agreement no later than two weeks

prior to bid submission, or by 4:00 PM on Tuesday, August 19. Due to the need to establish uniform procedures that safeguard the all confidential information, and in anticipation of the number of bidders, PGE will not be able to accept changes to the Confidentiality and Non-Disclosure Agreement.

Validity of Price and Offer

By submitting a proposal, the Bidder acknowledges and agrees that the terms of its proposal shall remain irrevocable for 140 days after the bid responses are due, as defined under “RFP Schedule”.

Bid Evaluation Criteria

Price comprises 60 percent of our evaluation criteria, reflecting PGE’s intent and commitment to obtain the best possible value for our customers. Non-price factors comprise the other 40 percent and primarily reflect various performance risk and operational attributes of the bid proposals. Additional evaluation description is provided in the Criteria Used for Scoring Qualified Bids section of the document.

Reservation of Rights

This RFP is not, and shall not be construed to be, an offer by PGE. PGE is not bound to enter into negotiations or execute an agreement with, or purchase any products from, any Bidder as a result of this RFP. No rights shall be vested in any Bidder, individual or entity by virtue of its preparation to participate in, or its participation in, this RFP. No binding commitment shall arise on the part of PGE to any Bidder under this RFP unless and until the parties execute definitive agreements that become effective in accordance with the contract terms.

Each Bidder shall be solely responsible for all costs it incurs in preparing to participate in, participating in, or responding to this RFP.

The bids received will be evaluated and selected based on the information supplied by each Bidder pursuant to this RFP. PGE reserves the right to modify or withdraw from this RFP process, or modify the schedule and any provisions contained herein, for any reason. As part of our normal course of business, PGE conducts bilateral discussions with developers and other electric energy providers. PGE also reserves the right, consistent with the Competitive Bidding Guidelines, to make purchase commitments at any time to suppliers not participating in this RFP process.

PGE reserves to itself:

- The selection of short-listed bids and the awarding of contracts, if any, in the exercise of its sole discretion.
- The right to reject any and all bids, and any portion of a specific bid for any reason.

- The right to waive any immaterial non-conformity in any bid received.
- The right to award a contract to a Bidder based on a combination of price and non-price factors, a quantitative and qualitative assessment of portfolio fit, and post-bid negotiations.

PGE shall have no obligation to provide a reason for rejecting a Bidder's bid.

Confidentiality and Nondisclosure

In accordance with an executed Confidentiality and Nondisclosure Agreement and any Protective Orders issued by the OPUC, PGE will maintain the confidentiality of any proprietary and confidential information contained in a bid, provided that such information is clearly identified by the Bidder as "Confidential Information" on each page on which such proprietary and confidential material appears. Each Bidder must execute and return a copy of the Confidentiality and Nondisclosure Agreement, the form for which is included separately in the RFP packet, as soon as possible, but no later than the time of the submission of its bid or bids. *It is the Bidder's responsibility to indicate clearly in its proposal what materials it deems to be proprietary and confidential.*

PGE will hold such information in confidence pursuant to the terms of the executed Confidentiality and Non-disclosure Agreement and any Protective Orders issued by the OPUC.

Document Retention

All bids and exhibits supplied to PGE during the RFP process will become the property of PGE. PGE will retain all bid materials supplied to it and pertinent information generated internally by it in connection with the RFP process in accordance with PGE's document retention policies.

Bid Evaluation Process

This section describes PGE’s process for evaluating bids received in response to this RFP. For details about our scoring criteria, see the sections, “Bid Pre-Qualifications,” and “Criteria Used for Scoring Qualified Bids,” below.

Reviewing, Ranking and Selecting Bids

In selecting the RFP short list, PGE will use a first-price, sealed-bid format. Under this format, Bidders may not update pricing during the scoring and evaluation period. We will use the first prices provided by Bidders to select our short list of candidates, and then negotiate contract terms and conditions during post-bid negotiations. PGE intends to submit a self-build proposal (Benchmark resource) for the Flexible Capacity Product. A Benchmark resource will not be submitted for the Seasonal Peaking Capacity Product. The scoring process is illustrated in Figure 2, below.

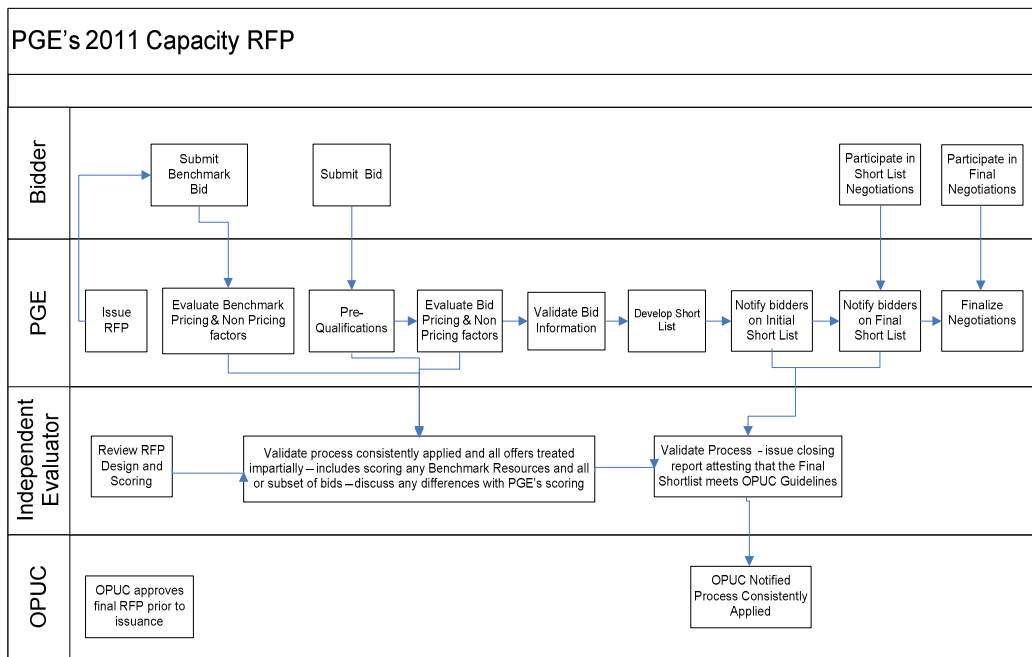


Figure 2. Resource Selection Process

PGE reserves the right to request additional information regarding any proposal received

Bids will be evaluated using a two-step process.

- *Assessment of Pre-Qualifications* – First, PGE will screen bids according to pre-established qualifying criteria, *i.e.*, minimum quantity and term, quality of credit and bidder qualifications.
- *Evaluation of Scoring Factors* – Next, PGE will score bids that meet the pre-qualification standards. Overall scores will be comprised of price and non-price factors.

Independent Evaluator

PGE will use an independent, third-party evaluator, Accion Group, to help ensure the RFP is conducted in accordance with the OPUC Competitive Bidding Guidelines, and that all bids are evaluated consistently and impartially. The Independent Evaluator will:

- Consult with PGE in preparing the RFP and submit its assessment of the final draft RFP to the OPUC when PGE files for RFP approval.
- Work with PGE and the OPUC staff to finalize scoring and evaluation criteria, including providing “mock bids” to test the integrity of the evaluation models.
- Independently assess the reasonableness of the score(s) for PGE’s Benchmark Resource.
- Evaluate the unique risks and advantages associated with the Benchmark Resource(s).
- Independently score all or a sample of the bids to determine whether the selections for the initial and final short-lists are consistent with the bid evaluation criteria.
- Compare the results of the Independent Evaluator’s scoring with PGE’s scoring and work with PGE to reconcile and resolve scoring differences, if any.
- Prepare a Closing Report for the OPUC 24 days after PGE has selected the final short-list.
- In its Closing Report, provide all aspects of the solicitation process and the IE’s involvement, including detailed bid scoring and evaluation results, to PGE, non-bidding parties and the OPUC subject to the terms of the Protective Order.

Requested Power Products

PGE requests proposals for the electric capacity products, as described in this section, and summarized below. See Appendices A through H for specific product term sheets.

PGE requests proposals for the following three products in this RFP that can be categorized into 2 distinct types of capacity:

- Flexible Capacity:
 - Approximately 200 MW of year-round flexible capacity to fill a dual function of providing capacity for maintaining supply reliability during peak demand periods and contingency events, and for providing needed flexibility to address variable load requirements and increasing levels of intermittent energy resources
- Seasonal Peaking Capacity:
 - Approximately 200 MW of bi-seasonal, limited-duration peaking supply
 - Approximately 150 MW of winter-only peaking supply to maintain reliability and meet system contingencies during peak demand periods.
 - Alternatively, we will also consider aggregate bids for 200 MW of summer-only peaking supply and 350 MW of winter-only peaking supply.

As stated above, PGE intends to submit a Benchmark Bid specifically addressing the year-round flexible capacity need in this RFP. The Benchmark Bid will be submitted and scored prior to all other bid responses.

Table 1. Summary of Requested Capacity Products

Type	Product	Block		Start Date			Term	
		Min	Target	No earlier than	Preferred	No later than	Min	Target
Flexible Peaking Capacity	Power Purchase Agreement	25 MW	200 MW	2013	Before 2014	2015	10 years	20+ years
	Ownership	25 MW	200 MW	2013	Before 2014	2015	NA	NA
Bi-Seasonal Capacity	Power Purchase Agreement	25 MW	200 MW	2013	Before 2014	2015	5 years	5+ years
Winter-only Capacity	Power Purchase Agreement	25 MW	150 MW	2013	Before 2014	2015	5 years	5+ years

Point of Delivery, Transmission and Gas Transport

All bids must provide delivery to PGE's load. PGE is electrically connected to both Bonneville Power Administration (BPA) and PacifiCorp. To ensure that bid proposals are evaluated on a comparable basis, POD scoring evaluation will include both price factors to quantify the cost and non-price factors to quantify the risk associated with delivery to PGE. The transmission component will not be a threshold determinant; however, if during the evaluation, it is determined that the proposals as submitted will be unable to achieve firm delivery to PGE's load, the proposal will be released. In addition, the following items will be the subject of negotiation and confirmation prior to execution of any contracts in connection with this RFP: (1) status of firm delivery capability or rights to transmit the proposed energy supply to PGE's load or satisfactory evidence of steps taken to perfect the rights to use PGE's Cascade Crossing Project; and in the case of the Flexible Capacity resource, (2) rights to dynamically transfer the proposed nameplate equivalent of the resource being bid to PGE's load, (3) the ability to operate the facility under automatic generator control (AGC) and (4) rights to schedule fuel intra day. For the Flexible Capacity resource, the dynamic transfer right across transmission line and flexibility around fuel scheduling is necessary to access the AGC (intra-hour) capabilities of a generating unit. If a proposal includes interconnection or transmission service as well as Gas transport and/or Gas Storage agreements, bidder will be required to supply all information as detailed in Appendix J.

About the Term Sheets

Term Sheets are Examples Only

The draft term sheets included in the appendices are provided as examples only and, while they include expressions of preferred product structures and characteristics, they are not intended to exclude other proposals for meeting PGE's capacity needs. Bidders should mark up the sample term sheets as needed. In any case, bids must include sufficient information for PGE to make a thorough evaluation of the proposals.

Firm Transactions

For the purposes of this RFP, a "firm transaction" is one for which the only excuse for failure to deliver or receive is force majeure, as defined in the purchase agreement templates. **Firm energy includes reserves and ancillary services** to ensure that energy schedules are certain and delivered intact throughout the hour.

Contract Terms and Conditions

Capacity Purchase Term Sheets and Agreements

The contract term sheets for capacity purchases are included in appendices as follows:

- Appendix A – Flexible Capacity Product
- Appendix B – Seasonal Peaking Capacity Product, Peak Tolling
- Appendix C – Seasonal Peaking Capacity Product, Fixed Strike Daily Physical
- Appendix D – Seasonal Peaking Capacity Product, Daily Exchange

The contract templates for capacity purchases are included in appendices as follows:

- Appendix E – Asset Purchase Agreement
- Appendix F – Physical Capacity Purchase and Sale Agreement
- Appendix G – Physical Capacity Exchange Agreement
- Appendix H – Template for Tolling Agreement

For purchase agreement proposals, Bidders must use one or more of the purchase agreement templates included in this RFP, and must include any proposed revisions to the contract (shown in red-line) as part of their response package to this RFP. PGE will evaluate all proposed revisions, but is under no obligation to accept any revisions or adopt any changes. Changes, if any, to terms and conditions or revisions to the templates will be discussed with Bidders selected for post-bid negotiations.

Ownership Position in a Capacity Resource

Bidders submitting a bid for a PGE asset purchase of a capacity resource are requested to provide as part of their response package to this RFP the documents identified in Appendix E, Asset Purchase Agreement. PGE recognizes that terms may need to vary in material respects because of the many possible variations of an ownership transaction. As such, bidders are invited to redline PGE's Asset Purchase Agreement with their bid. Changes to terms and conditions or revisions to the documents will be discussed with Bidders selected for post-bid negotiations.

Electric Capacity Products

As described under "Non-Price Factors" in the section, "Criteria Used for Scoring Qualified Bids," PGE requires delivery to PGE's load. The aggregate quantity of capacity for the products below should be approximately 350 MW in winter and

200 MW in summer for the Seasonal Peaking Capacity, and 200 MW for the Flexible Capacity.

Flexible Capacity – PGE is interested in purchasing flexible capacity available year round for delivery to PGE’s load. Bids must provide PGE with a flexible, physical generator that will allow for dynamic control with Automated Generator Control (AGC). These services should provide PGE with the right throughout the year to schedule, daily, hourly as well as intra-hour in exchange for a capacity and an energy fee. These services should provide PGE with the right to convert natural gas or oil to electricity according to the pre-defined physical and operating characteristics of the Bidder’s generating facility or portfolio of assets. In the case of a hydro generation facility, the bidder will contractually give PGE the ability to use the water to generate, store or spill. Total nameplate capacities should be in blocks of 25 MW/h or greater, with a minimum ten-year duration. Bidders may include fuel supply options within their bids. PGE will not allow for virtual tolls to qualify. Bidders will be asked to submit the technical specifications of the thermal or hydro generating facility the bid is backed by. See Appendix A for a sample term sheet and required bid information.

Peak Tolling – PGE is interested in purchasing peak tolling services delivered to PGE’s load. These services should provide PGE with the right during the months of December, January and February and / or the months of July, August and September of each year to schedule daily on-peak energy in at least four-hour continuous blocks at a capacity charge. These services should provide PGE with the daily right to convert natural gas or oil to electricity according to the pre-defined physical and operating characteristics of the Bidder’s generating facility or portfolio of assets. Purchase quantities should be in blocks of 25 MW/h or greater, with a minimum five-year duration. Bidders may include fuel supply options within their peak tolling bids. PGE will also consider bids for “virtual” or system tolls, and for tolls based on representative gas and power indices, such as heat rate options. See Appendix B for a sample term sheet and required bid information.

Fixed Strike Daily Physical Capacity – PGE is interested in purchasing daily fixed strike physical capacity delivered to PGE’s load. Daily capacity services should provide PGE with the right during the months of December, January and February and / or the months of July, August and September of each year to schedule daily on-peak energy in at least four-hour continuous blocks for consideration of a pre-specified demand charge and energy strike price. Daily capacity products should be in blocks of 25 MW/h or greater, with a minimum five-year duration. See Appendix C for a sample term sheet and required bid information.

Daily Exchange Product – PGE is interested in purchasing daily energy exchange delivered to PGE’s load. Daily electric exchange services should provide PGE

with the right during the months of December, January and February and / or the months of July, August and September of each year to, within a 24-hour period, receive energy during on-peak hours in exchange for return of an equal quantity of energy during off-peak hours. Delivery by PGE may precede receipt by PGE. Bidder also may offer a similar option for July, August and September. This exchange must conform to certain minimum and maximum return requirements, as specified in the term sheet. Daily exchange products should be in blocks of 25 MW/h or greater, with a minimum five -year duration. Energy exchanged must net to zero each day. See Appendix D for a sample term sheet and required bid information.

Bid Pre-Qualifications

To be considered for evaluation, all proposals must meet the requirements specified below.

General Pre-Qualifications

General pre-qualifications include minimum bid quantity, minimum bid term, credit and bidder qualifications.

Minimum Bid Quantity

The minimum bid amounts are:

- *Year-round flexible capacity* – 25 MW.
- *Bi-seasonal, limited-duration peaking supply* – 25 MW.
- *Winter-only peaking supply* – 25 MW.

Minimum Bid Term

The minimum bid terms are:

- *Year-round flexible capacity* – Ten years.
- *Bi-seasonal, limited-duration peaking supply* – Five years.
- *Winter-only peaking supply* – Five years.

Credit and Bidder Qualifications

All transactions are contingent upon the Bidder meeting and maintaining the credit requirements established by PGE's Credit Risk Management Department:

- Bidder's or Bidder's credit support provider's (if any) long-term, senior unsecured debt that is not supported by third-party credit enhancement must be rated by one or more of the following agencies as follows: BBB- or higher by Standard & Poor's and Fitch, BBB (low) by DBRS, or Baa3 or higher by Moody's Investor Services, Inc. If the Bidder or Bidder's credit support provider is reviewed by more than one agency, PGE will consider the lowest rating maintained.
- Bidders that are not publicly rated, and bids offering full project ownership, will be subject to review by PGE's Credit Risk Management Department for qualification.

Typically contracts will only be awarded to Bidders that have at a minimum, investment grade credit rating or provide acceptable performance assurance. Alternatively, the Bidder must provide performance assurance in the form of a parental guarantee, a letter of credit and/or cash, based on the Bidder's and/or Guarantor's credit profile and the amount of expected financial exposure related to the bid.

Bids for an outright purchase of a 100 percent equity interest in a plant will be considered regardless of the creditworthiness of the Bidder. If the plant is not yet complete and the project will be completed by the bidder prior to sale, PGE's Credit Risk Management Department requirements will apply until commercial operation of the plant.

As applicable, the Bidder must provide documentation, satisfactory to PGE, that it is able to schedule power and operate under industry standards established by the Federal Energy Regulatory Commission (FERC), Western Electricity Coordinating Council (WECC) and the North American Energy Reliability Council (NERC), or other applicable regulatory body or government agency.

For Projects Used to Support Bids

Commercial In-Service Date

Bidders must show site control (or clear evidence of ability to achieve site control) and other contractual terms that support the bids' Commercial Operation Date. Bidder must identify the power supply source it intends to use to support its bid commitments before the project in-service date. PGE may consider projects that begin before the specified dates, provided they meet our portfolio needs.

Technology

Projects being developed to support bids shall use commercially viable generation technology. The Bidder shall specify the generation technology it proposes to use and provide preliminary design studies – completed in sufficient detail to identify major equipment and components. The Bidder will also provide a site layout plan, and a project milestone schedule indicating critical path elements. Generation technology must comply with all current applicable Codes and Standards for a USA based resource. For generation technologies that are not in common use by electric utilities, the Bidder shall identify electric projects where the technology is already being used or provide documents describing the technology.

Technology used to support bids in the Flexible Capacity RFP will need to have at a minimum the following capabilities:

- AGC Ready
 - Need to know limitations, if any.
- Incremental/Decremental Ramp Rate within hour
 - 5 MW/minute minimum
- Ability to move through the operating range over multiple hours

Suitability of Site (where applicable)

The Bidder must identify the project site location, show site control and provide satisfactory evidence that the site is not otherwise committed or encumbered and is available for the full-term of the proposed bid. The Bidder must have identified all required site-specific permits and have prepared a plan or schedule for obtaining all permits and licenses. For proposals to sell project development rights or lease options the Bidder should identify any required permits and licenses that the bidder intends to acquire and those that PGE would be responsible to obtain.

For purposes of this RFP, PGE will not accept proposals that rely on PGE's assets (such as land and/or transmission rights). For example, bidders must provide their own sites as part of the bid package.

Fuel Supply (where applicable)

Bidder must demonstrate physical and commercial access to fuel supplies and fuel transportation for the term of the contract proposed in its bid. Fuel transport and/or gas storage agreements used to support gas thermal bids submitted for Flexible Capacity must allow for intra-day nomination.

Criteria Used for Scoring Qualified Bids

This section briefly describes the criteria PGE will use to evaluate bids submitted in response to the RFP. Because the characteristics of a year- round flexible capacity are different than those of a peaking resource, PGE will score the two resource types separately. We will employ the same set of Evaluation Criteria, but with some variation in its application for both price and non-price scoring. The table below summarizes these criteria. For details about additional information that should accompany each bid, see “Appendix I, Required Bidder Profile,” and “Appendix J, Required Bidder Information.”

Table 2. Evaluation Criteria for Flexible and Peaking Capacity Products

Bid Scoring Categories:	Max Score	% of Total Score	Description
1. Price Score	600	60%	Includes fixed and variable bid costs compared to a market price: <ul style="list-style-type: none"> • For Flexible Capacity Bids, variable costs incorporates: <ul style="list-style-type: none"> ○ Cost to comply with PGE's reliability-based dispatch signals ○ Energy-based market dispatch • Seasonal Capacity bids variable cost will only include cost related to reliability dispatch
2. Project Development Criteria	50	5%	Includes development team experience, permitting
3. Project Characteristics	150	15%	Interconnection, Transmission rights, Gas transport and storage
4. Power Product Characteristics	125	12.5%	Flexibility of unit, length of contract and firmness of energy
5. Credit Evaluation (PPA)	75	7.5%	Collateral requirement, credit threshold, cross default
6. Credit Evaluation (Equity)			This is only used for equity bids. Score is based on counterparty's ratio and debt rating (mutually exclusive with 5. Credit Evaluation (PPA))
Total Score	1,000	100%	

Price Factors

Price represents a significant portion of the overall score. To evaluate bids containing different product characteristics on a comparable basis, base prices submitted by the bidder will be subject to adjustment for the following considerations:

- *Additional costs and risks associated with delivering product to PGE's load from PODs other than PGE's load.*
- *Ancillary services, if not included in product pricing – See discussion below.*
- *Cost of fixing fuel price (to recognize the fuel cost volatility component compared to fixed power price bid).*
- *Quality and firmness of energy and capacity.*
- *Required environmental payments to comply with state regulations, e.g. Oregon Climate Trust payments*
- *Costs of compliance with assumed future federal CO2 requirements.*
- *Any other factor necessary to ensure bids are evaluated on a comparable basis.*

The price score will be calculated as the ratio of the bid's projected total cost per MWh to forecast market prices using real-levelized or annuity methods (per Guideline 9a. of the Competitive Bidding Guidelines).

PGE may require performance assurances in support of the Bidder's obligations, which may include one or more subordinate liens in combination with corporate guarantees, escrow accounts, cross-default thresholds, cash deposits or letters of credit. Lower levels of performance assurances may be acceptable, if there are other compensating factors as determined by PGE in its sole discretion. PGE retains the right to adjust the bid price to include the cost to PGE of performance assurances if the bidder does not provide adequate performance assurance.

Ancillary Services – If ancillary services are not included in product pricing, power product bids for delivery to PGE's load will at a minimum need the following ancillary services to meet control area operations and transmission provider requirements:

- Operating and supplemental reserves.
- Generation and energy imbalance.
- Scheduling, system control and dispatch.
- Reactive support and voltage control.

Bidders shall provide a comprehensive list of all ancillary services they are planning to provide in delivering the power product to the point-of-delivery. To the extent that any of these required ancillary services are not being supplied by the Bidder, PGE will, for scoring purposes, adjust the price provided by the bidder to reflect the cost of acquiring additional ancillary services required. We will use a cost estimate based on verifiable prices or regional standards whenever possible.

In addition to the above Price criteria, Flexible Capacity bids will be subject to a reliability based dispatch required to follow expected load or wind deviations (this will be an equal amount of dispatch for each bid). Such reliability based dispatch will be in addition to the economic dispatch of each bid and reflect

PGE's forecasted reliability-based needs. Additional dispatch costs will be included as part of the Price Factor of the Flexible Capacity bids.

Non-Price Factors

Project Development

This category scores the likelihood that a project supporting a bid can be placed in commercial service. The evaluation criteria for this category generally address construction and development risks associated with the completion of projects that are not yet in commercial operation, and which are necessary to support bids. Plants that are already operating or are sufficiently advanced in construction may be deemed to earn the maximum possible score from this category.

For projects that are less advanced, we will consider the following criteria for scoring:

- Method and status of project financing.
- Level of site control by developer.
- Project team experience.
- Status of required permits, licenses and studies
- Status of equipment supply and engineering, procurement and construction (EPC) agreements.

Point-of-Delivery

Point-of-delivery (POD) is both a price and non-price factor. This category scores the risks associated with potential transmission constraints or curtailments in delivering the power from external PODs to PGE's load. When scoring for non-price factors, we will factor in the risks of transmission congestion.

The required point-of-delivery for products specified in this RFP is PGE's load. Currently, PGE's load is designated as "PGE" for scheduling purposes. Bidder will be responsible for all transmission arrangements and costs to PGE's load. These costs include those required for interconnection and transmission service.

Most of PGE's long-term rights to transmission on BPA's system are already dedicated to a PGE resource. While PGE will evaluate each proposal and POD on a case by case basis, Bidders should assume that PGE has no long-term firm transmission rights that are available to be re-directed to transmitting proposed resources to PGE service territory.

The Pacific Northwest (PNW) transmission system currently has numerous constraints that can limit the firm delivery of power products for extended periods of time. The scoring process for this RFP assumes continuation of the status quo; however, PGE retains the right to adjust the delivery risk of each proposal based upon the progress of BPA's open season process and the development of the proposed Cascade Crossing transmission line.

A Bidder may specify multiple PODs in its bid (PGE.BPAT or PGE.PACW), provided it specifies which party has the right to choose the applicable POD. Bids that assign this option to PGE will be scored more favorably than those that do not.

Except for Qualifying Facilities (QFs) under the Public Utility Regulatory Policies Act of 1978 (PURPA), as amended, for proposed projects within PGE's service territory, interconnection to, and transmission service on, PGE's transmission system, including the proposed Cascade Crossing transmission line, will be provided under the terms and conditions of PGE's federal Open Access Transmission Tariff (OATT), PGE's Generator Interconnection Guidelines, and all applicable orders and rules. Interconnection of proposed QFs shall be governed by PURPA, applicable PGE tariffs and applicable state orders and rules.

Confirmation of firm delivery capability or rights to transmit the proposed energy supply to PGE load (including confirmation of dynamic transfer capability) will be required prior to execution of any contracts in connection with this RFP.

PGE's federal Open Access Transmission Tariff (OATT) is available at:
http://www.oatioasis.com/PGE/PGEdocs/PGE_CURRENT_OATT_Part_I_as_of_10-12-07_Schedules_Attachmen%E2%80%A6.pdf

PGE's Generator Interconnection Guidelines are available at:
http://oasis.portlandgeneral.com/pdf/gen_inter.pdf

Physical Project Characteristics

This category captures the physical characteristic risks of the bid product that affect PGE. The evaluation criteria for this category generally address physical and operational risks associated with the production and delivery of power to PGE. Some of the characteristics that we will consider in our scoring are:

- Resource technological diversity within the context of PGE's supply portfolio.
- Resource adequacy.
- Project location.
- Fuel supply diversity, resource risk, and O&M reliability characteristics.
- Compliance with all applicable Codes & Standards
- Fuel delivery.

Our non-price scoring criteria also values projects that provide benefits to Oregon and our local economy. The criteria include a benefit for location within Oregon, and a somewhat higher benefit for location within our service territory.

Power Product Characteristics

This category scores how well the bid product matches PGE's system operating needs. The evaluation criteria for this category generally address price risk, performance and supply portfolio concentration risks, along with the benefits of operational flexibility and optionality. Some of the characteristics that we will consider in our scoring are:

- Guaranteed Availability Factor (GAF) and compensation for failure to achieve it.
- Dispatchability.
- Product flexibility.
- Contract term.
- Amount (MW per hour).
- Deviations from capacity product term sheet.

In addition to the above criteria under the Power Product Characteristics for Flexible Capacity bids, PGE will also score the bid's ability to meet the reliability based dispatch requirements. Bids that are able to respond to all PGE reliability based dispatch will score better than others who are contractually or mechanically unable to respond.

Credit Evaluation

This category scores the creditworthiness of the Bidder. We will take into account the following credit considerations in our scoring:

- Debt and equity ratings.
- Performance assurance.
- Financial ratio analysis.
- Default risk.
- Credit concentration and liquidity.
- Enforceability of contractual credit terms.
- Bidder revisions to contract templates that may affect credit requirements.

Final Short List Determination

For the initial short list, PGE is targeting to include bids representing approximately two times the capacity requested in this RFP for the initial short list, subject to receipt of a sufficient quantity and quality of bids. Once the initial short list has been developed pursuant to the scoring criteria outlined above,

PGE will refine bid evaluation in the following areas to determine the final short list:

Transmission - Explanations of transmission evaluations can be found in the section “Criteria Used for Scoring Qualified Bids”, above. As stated above, PGE may adjust the delivery risk of external PODs based upon the progress of BPA’s open season process at the time of the determination of the initial short list. As described above, bids which do not provide for firm delivery capability or rights to transmit the proposed energy supply to PGE’s load or satisfactory evidence of steps taken to perfect the rights to use PGE’s Cascade Crossing Project may be excluded from the final short list.

Security for Performance Requirements – PGE will perform a detailed credit risk evaluation of all shortlist bidders, and will refine performance assurance requirements during this stage. However, performance assurance will only be required at the execution of an agreement with a successful bidder.

Imputed Debt - Leverage effects refer to the impact of long-term contracts on PGE’s debt-equity ratio and cost of borrowing¹. As defined in the Oregon Competitive Bidding Guidelines, considerations of ratings agency debt imputation (the leverage adjustment) will be reserved for the selection of the final bids from the initial short list of bids. PGE will obtain an advisory opinion from a ratings agency to substantiate our analysis and final resource selections, if requested by the Commission.

Portfolio Fit – PGE will consider the fit of a given short-listed proposal with PGE’s existing resources, and potentially in conjunction with other short-listed proposals to the extent project aggregation is necessary to reach PGE’s desired new resource targets.

Post-Bid Negotiations

PGE’s goal is to conduct an efficient post-bid negotiation process. A number of factors will be considered in the post-bid process to ensure an appropriate fit with our overall energy portfolio. These include performance risks, concentrations of risk and contract terms, firmness of delivery, fuel risk exposure and leverage effects. PGE will initiate negotiations with a final short list of Bidders whose proposals rank highest in the evaluation process and whose proposed transactions, PGE believes in its sole discretion, offer value to PGE’s energy and capacity supply portfolio for customers, and have a reasonable likelihood of being executed and performed.

¹ If PGE purchases power under a contract requiring fixed payments, Standard & Poor’s may calculate the net present value (NPV) of the fixed payments and impute a percentage of that as debt on PGE’s balance sheet. Any debt imputation will be consistent with all applicable laws

The number of bidders with whom negotiations will be held will depend upon the bids received, the size or quantity of the highest ranked bids as compared to our resource needs, the results of the scoring process and other factors described more fully in the sections "Bid Evaluation Process", "Criteria Used for Scoring Qualified Bids", and "Final Short List Determination ." Selection for the final short-list and initiation of negotiations do not constitute a winning bid.

PGE intends to negotiate price and non-price elements during the post-bid negotiations. Any contract contemplated by this RFP shall not bind PGE until execution of a definitive agreement by both PGE and the bidder and, if required, the agreement is approved or otherwise authorized by the appropriate regulatory agencies.

PGE shall have no obligation to enter into a definitive agreement with any Bidder to this RFP and, at its sole discretion, may terminate negotiations with any Bidder at any time without liability or obligation to any Bidder. Whether or not, and until, negotiations with Bidders produce final and fully executed contracts satisfactory to PGE for its resource targets under the RFP,, PGE reserves the right to pursue any and all other resource options available to it.

Appendix A – Flexible Capacity Product

Sample Term Sheet – For Discussion Only

<i>Product:</i>	Flexible Capacity product should provide PGE the daily, hourly and intra hour right to convert fuel (e.g. natural gas, oil, hydro) to electricity according to the pre-defined physical and operating characteristics of the Bidder's generation facility. In consideration of such right, PGE will pay the Bidder a capacity charge and an energy charge over the contract term.
<i>Seller:</i>	Bidder.
<i>Purchaser:</i>	Portland General Electric Company (PGE).
<i>Generation Facility:</i>	Bidder's hydro electric generating facility, natural gas fueled electric generating plant or network of plants as mutually agreeable to the PGE and Bidder.
<i>Available Hours:</i>	Year Round
<i>Term:</i>	Minimum term is 10 years and preferred term is 20 years, starting no later than 2015
<i>Available Capacity:</i>	Bidder to provide. <i>Sample: 100 MW/h.</i> <i>Preferred: 50 MWh per hour to 100 MW/h.</i> <i>Limits: Bids must be 25 MW/h at a minimum and not be greater than 250 MW/h.</i>
<i>Exercise Quantity:</i>	Bidder to provide. <i>Sample: Exercise of 25 MWh for the first 10 minutes, 50 thereafter.</i>
<i>Heat Rate:</i>	Bidder to provide if applicable, in the case of Hydro generating facility, Bidder can simply indicate that the bid is hydro based. Bidder must clearly delineate any constraints on the commitment, dispatch and operation of the unit. <i>Sample: Guaranteed at 12,500 Btu per kWh (HHV) at full power.</i>
<i>VOM:</i>	Bidder to provide. <i>Sample: Variable operation and maintenance rate: \$_____ per MWh. To be paid by PGE to the Bidder for all hours that PGE dispatches the tolling facility.</i>
<i>Delivery Point:</i>	Bidder to provide. <i>Required: PGE.</i>

- Fuel Delivery Point:* Bidder to provide.
Preferred: PGE to deliver fuel to a trading hub, such as AECO or Sumas, with the Bidder to supply all additional gas transportation services.
Sample: PGE to deliver fuel to an agreed-upon trading hub or pipeline interconnection, and bidder to be responsible for all expenses related to the transportation of fuel to the agreed-upon trading hub or pipeline interconnection.
- Fuel Supply:* Bidder to provide:
Sample: PGE shall be responsible for all expenses related to the acquisition of fuel.
Note: Bidders interested in providing the fuel for this tolling service should describe in detail the services, pricing, terms and conditions associated with this service, and should indicate whether their supplying fuel is an option or a requirement of their proposal.
- Dispatch:* PGE has the right of daily dispatch on a customary pre-schedule basis. Real time hourly and intra hour adjustments shall be made available according to pre-established facility ramp-rates, start-up costs and dispatch protocols. Energy shall be scheduled according to customary WECC scheduling practices.
- Energy Charge:* Bidder to provide.
Sample: PGE shall pay Bidder the product of fuel price times Heat Rate for every MWh of energy called on. Hydro player can use other mechanism to price their energy charge, including but not limited to indexed or fixed energy price.
- Capacity Charge:* Bidder to provide.
Sample: \$USD ____ per kW-month paid monthly during the term.

Appendix B – Seasonal Peaking Capacity Product, Peak Tolling

Sample Term Sheet – For Discussion Only

<i>Product:</i>	Peak Tolling should provide PGE the daily right to convert fuel (e.g. natural gas, hydro, oil) to electricity according to the pre-defined physical and operating characteristics of the Bidder's tolling facility. In consideration of such right, PGE will pay the Bidder a capacity charge over the contract term.
<i>Seller:</i>	Bidder.
<i>Purchaser:</i>	Portland General Electric Company (PGE).
<i>Tolling Facility:</i>	Bidder's electric generating plant or network of plants as mutually agreeable to the PGE and Bidder.
<i>Available Hours:</i>	On-peak hours, which include hours ending 0700 through 2200, Pacific Prevailing Time (PPT), Monday through Saturday, excluding NERC holidays.
<i>Term:</i>	Bidder may provide any of the following options in the same bid: <i>Preferred: Winter (months of December, January and February) and Summer (months of July, August and September) of each year for five to 20 years.</i> <i>Will also consider: Winter or summer only, commencing July 1, 2014, for at least five years.</i>
<i>Available Capacity:</i>	Bidder to provide. <i>Sample: 100 MW/h.</i> <i>Preferred: 50 MWh per hour to 100 MW/h.</i> <i>Limits: Bids must be 25 MW/h at a minimum and not be greater than 350 MW/h.</i>
<i>Exercise Quantity:</i>	Bidder to provide. <i>Sample: Exercise of up to 8 hours per day in increments of at least 4 continuous hours.</i>
<i>Heat Rate:</i>	Bidder to provide. <i>Sample: Guaranteed at 12,500 Btu per kWh (HHV) at full power.</i>
<i>VOM:</i>	Bidder to provide. <i>Sample: Variable operation and maintenance rate: \$____ per MWh. To be paid by PGE to the Bidder for all hours that PGE dispatches the tolling facility.</i>
<i>Delivery Point:</i>	Bidder to provide. <i>Required: PGE.</i>

- Fuel Delivery Point:* Bidder to provide.
Preferred: PGE to deliver fuel to a trading hub, such as AECO or Sumas, with the Bidder to supply all additional gas transportation services.
Sample: PGE to deliver fuel to an agreed-upon trading hub or pipeline interconnection, and bidder to be responsible for all expenses related to the transportation of fuel to the agreed-upon trading hub or pipeline interconnection.
- Fuel Supply:* Bidder to provide:
Sample: PGE shall be responsible for all expenses related to the acquisition of fuel.
Note: Bidders interested in providing the fuel for this tolling service should describe in detail the services, pricing, terms and conditions associated with this service, and should indicate whether their supplying fuel is an option or a requirement of their proposal.
- Dispatch:* PGE has the right of daily dispatch on a customary pre-schedule basis. Real time hourly adjustments shall be made available according to pre-established facility ramp-rates, start-up costs and dispatch protocols. Energy shall be scheduled according to customary WECC scheduling practices.
- Capacity Charge:* Bidder to provide.
Sample: \$USD ____ per kW-month paid monthly during the term.

Appendix C – Seasonal Peaking Capacity Product, Fixed Strike Daily Physical Capacity

Sample Term Sheet – For Discussion Only

<i>Product:</i>	Fixed Strike Daily Electricity Physical Capacity.
<i>Seller:</i>	Bidder.
<i>Purchaser:</i>	Portland General Electric Company (PGE).
<i>Available Hours:</i>	On-peak hours. On-peak hours include hours ending 0700 through 2200, Pacific Prevailing Time (PPT), Monday through Saturday, excluding NERC holidays.
<i>Exercise Periods:</i>	Daily, for any on-peak hours for each calendar day. The product must be exercised in a minimum of 4-hour continuous blocks.
<i>Term:</i>	Bidder may provide any of the following options in the same bid: <i>Preferred: Winter (months of December, January and February) and Summer (months of July, August and September) of each year for five to 20 years.</i> <i>Will also consider: Winter or summer only, commencing July 1, 2014, for at least five years.</i>
<i>Contract Quantity:</i>	Bidder to provide. <i>Sample: 25 MW/h minimum, 350 MW/h maximum, when option is exercised.</i> <i>Preferred: 50 to 100 MW/h, when option is exercised.</i>
<i>Quality:</i>	Firm transactions, as defined in “About the Term Sheets.”
<i>Delivery Point:</i>	Bidder to provide. <i>Required: PGE.</i>
<i>Energy Charge:</i>	Bidder to provide. <i>Sample: \$USD ____ per MWh.</i>
<i>Exercise Procedure:</i>	For each day during the Term that PGE chooses to exercise the Product, PGE will notify Bidder by 6:30 AM PPT of the customary scheduling day of its intention to receive firm, on-peak energy at the delivery point according to the selected exercise periods. All energy shall be pre-scheduled according to customary WECC scheduling practices.
<i>Option Premium:</i>	Bidder to provide. <i>Sample: \$USD ____ per kW-month.</i>

Appendix D – Seasonal Peaking Capacity Product, Daily Exchange

Sample Term Sheet – For Discussion Only

<i>Product:</i>	Daily Electricity Exchange (daily shaping) should provide PGE the right to deliver an amount of energy for storage at rates up to the maximum contract MW per hour. PGE has the right to receive a like quantity of energy at rates up to the maximum MW per hour within 24 hours of delivery. The delivery and return quantity and hourly shape are to be specified by PGE on a day-ahead (pre-schedule) basis. In all cases, the total energy delivered by PGE and returned by the Bidder shall match in quantity and quality for each 24-hour period.
<i>Seller:</i>	Bidder.
<i>Purchaser:</i>	Portland General Electric Company (PGE).
<i>Available Hours:</i>	PGE may receive during on-peak and return during off-peak hours. On-peak hours include hours ending 0700 through 2200, Pacific Prevailing Time (PPT), Monday through Saturday, excluding NERC holidays. Off-peak hours include hours ending 0100 through 0600 and hours ending 2300 through 2400, PPT, Monday through Saturday, and hours ending 0100 through 2400, PPT, Sundays and NERC holidays.
<i>Exercise Periods:</i>	Daily, for any on- or off-peak hours for each calendar day.
<i>Term:</i>	<p>Bidder may provide any of the following options in the same bid:</p> <p><i>Preferred: Winter (months of December, January and February) and Summer (months of July, August and September) of each year, for five to 20 years.</i></p> <p><i>Will also consider: Winter or summer only, commencing July 1, 2014, for at least five years.</i></p>
<i>Contract Quantity:</i>	<p>Bidder to provide.</p> <p><i>Preferred: 50 to 100 MW/h. Delivery by PGE may precede receipt by PGE.</i></p> <p><i>Sample: 100 MW/h maximum receipt by PGE, 100 MWh maximum delivery by PGE. Energy must net zero each day. Delivery by PGE may precede receipt by PGE.</i></p>

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<i>Quality:</i>	Firm transactions, as defined in “About the Term Sheets.”
<i>Delivery Point:</i>	Bidder to provide. <i>Required: PGE.</i>
<i>Energy Charge:</i>	Bidder to provide. <i>Sample: \$USD ____ per MWh.</i> <i>Note: Can be zero.</i>
<i>Exercise Procedure:</i>	For each day during the term that PGE chooses to exercise the Product, PGE will notify Bidder by 6:30 AM PPT of the customary scheduling day of its intention to receive firm, on-peak energy and deliver firm, off-peak energy at the delivery point in a profile consistent with the contract quantity. All energy shall be pre-scheduled according to customary WECC scheduling practices.
<i>Demand Charge:</i>	Bidder to provide. <i>Sample: \$USD ____ per kW-month.</i>

Appendix E – Asset Purchase Agreement

Template provided in a separate document available for download on PortlandGeneralRFP.actionpower.com.

Appendix F – Physical Capacity

Template provided in a separate document available for download on PortlandGeneralRFP.accionpower.com.

Appendix G – Capacity Exchange

Template provided in a separate document available for download on PortlandGeneralRFP.actionpower.com.

Appendix H – Tolling Agreement

Template provided in a separate document available for download on PortlandGeneralRFP.actionpower.com.

Appendix I – Required Bidder Profile

Company Name:		
Name of Contact:		
Title:		
Mailing Address:		
Telephone:	Fax:	E-mail:

Bidder's general background and principal business:

Legal entity that would be the contracting party to a power purchase contract with PGE. State whether this entity will be formed for the sole purpose of the project and a description of the ownership and debt arrangements:
--

Bidder's senior unsecured debt rating:
<input type="checkbox"/> Standard & Poor's
<input type="checkbox"/> Moody's Investor Services., Inc.
<input type="checkbox"/> Fitch Ratings
<input type="checkbox"/> DBRS

One- or two-paragraph summary of proposal):

Appendix J – Required Bid Information

Please use the following multi-page form to provide required information regarding each bid. Wherever possible, enter information directly onto the form. Check boxes () indicate documents that are likely to be provided as attachments to the form.

Project name: Location: Initial in-service date(s): Nameplate capacity (MW): Expected monthly and annual energy generation (MWh):
<i>Term Sheet:</i> <input type="checkbox"/> Provide a term sheet describing power product being bid, including any exceptions or modifications to the applicable sample term sheet found in the RFP. <input type="checkbox"/> Submit the appropriate sample purchase agreement provided with the RFP including all requested amendments (in redline) to the document. All modifications of the credit terms and conditions will be used for the credit evaluation:
<i>Source of supply:</i> Will the bid will be supplied from: <input type="checkbox"/> A specific project. <input type="checkbox"/> A portfolio of projects. <input type="checkbox"/> A system sale not necessarily tied to specific projects. Identify all project(s) that will be used to supply the bid:
<i>Price:</i> Provide any additional price information not already captured in the term sheet:
<i>Term:</i> Include any provisions for renewal or extension:
<i>Power Product Quality:</i> Please indicate whether the Energy comes with all associated ancillary services including reserves.
<i>Product-specific Information:</i> Provide any additional information not already captured in the term sheet:
<i>Resource Adequacy Considerations:</i> For products supplied from portfolios or system sales, will the Bidder assign specific regional resources to support the product? If so, identify the resources.

Credit Support and Quality of Credit

Provide the following:

- ❑ A corporate organizational chart identifying the Bidder and, if applicable, the Bidder's financial Guarantor.
- ❑ A list describing the relationship of the Bidder to its financial Guarantor, the developer and development team, or the thermal host, as applicable.
- ❑ The unsecured credit ratings of the Bidder, the Bidder's financial guarantor, the developer and the development team, or the thermal host, as applicable.
- ❑ The most recent summary, opinion or update by S&P and Moody's, as applicable.
- ❑ The Dun & Bradstreet number of the Bidder, the Bidder's financial guarantor, developer and the development team, or the thermal host, as applicable.
- ❑ Bidder's audited financial statements for the three most recent fiscal years. In the event Bidder cannot provide the information, Bidder shall provide that information for its financial Guarantor.
- ❑ Audited financial statements for the three most recent fiscal years from the developer and development team.
- ❑ Audited financial statements for the three most recent fiscal years from the thermal host associated with a cogeneration resource, as applicable.

All transactions are contingent upon the Bidder, or its financial Guarantor, meeting and maintaining the credit and performance assurance requirements established by PGE's Credit Risk Management Department.

Point-of-Delivery

Identify the POD(s) for the bid:	
Provide evidence satisfactory to PGE of the Bidder's ability to deliver the power product to each specified POD on a firm basis. Including the following information:	
Provide all applicable interconnection and transmission service agreements:	
Identify any restrictions on operation imposed by applicable interconnection and transmission agreements. Include any requirement to participate in remedial action schemes or be subject to re-dispatch as identified by the transmission provider.	
If the proposed POD is not PGE, describe the basis upon which the power is expected to be delivered to PGE, including:	
Provide expected contract path.	
<input type="checkbox"/> Firm <input type="checkbox"/> Non-firm. Please describe:	
Provide all relevant information that will help us evaluate the expected cost and timing associated with converting any non-firm transmission to firm transmission in the path to PGE.	
If Bidder has not obtained firm transmission rights to the specified POD, provide all relevant details, including:	
Key dates for finalizing the interconnection and transmission agreements.	
Dates	Agreements
Completion dates for transmission facility additions or modifications necessary to secure such service.	
Dates	Transmission Facility Additions

Fuel or Energy Source and Technology

Fossil-Fuel Technology

Complete a separate copy of this page for each fossil-fueled project used to supply the bid.

Project name:
Describe the normal annual maintenance outage for the project, including timing and expected duration.
List major outages planned during the contract period.
Provide a heat rate curve for the project showing heat rate versus output.
What is the primary fuel type to be used by the project? Are there restrictions that could limit the use of the primary fuel? Please describe. Can secondary fuel types be used by the project? If so, are there any restrictions on their use? Please describe.
For the primary fuel, is there access to fuel delivery from multiple sources, e.g., interconnections with multiple gas pipelines? Does the project have contracts for firm fuel transportation for the primary fuel? If so, for what term? What percentage of the total fuel needs are covered under these contracts?
Is there any fuel storage capability at the project site or held by the project at other sites? For tolling agreements, please indicate whether the storage capability would be available to PGE, in what amount and at what cost?

<p>If the bid assumes PGE will use fuel or fuel transportation contracts held by the project:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Provide any documentation that will assist PGE in evaluating the supplier's financial strength and ability to meet its contract commitments.
<p>For projects that are not already in commercial operation, identify new fuel transportation infrastructure needed before commercial operation of the project</p> <p>What actions are needed to ensure that this new infrastructure is developed in a timely manner to support the scheduled in-service date of the project?</p>
<ul style="list-style-type: none"> <input type="checkbox"/> Provide any additional information the Bidder believes is pertinent to evaluating access to fuels for the project.

Hydroelectric

Complete a separate copy of this page for each hydroelectric project used to supply the bid.

<p>Project name:</p>
<p>For projects already in operation: Hourly net energy production records for the period that the project has been operating:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Also provide a projection of forward-going energy production.
<p>For all hydroelectric projects:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Provide resource assessment reports for the project, and augment if necessary with the following information:
<p>Water flow data and basis of the project head assumptions used in the development of the net annual and monthly energy projections. Include:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Identification of the organization responsible for data collection and analysis, the period over which the data was collected, a discussion of the approach used for collecting data, and data quality assurance procedures. <input type="checkbox"/> The analysis used to determine the project head assumptions. <input type="checkbox"/> A table of projected monthly and annual water flows (average, adverse, and favorable) over the term of the proposed power purchase contract, including any assumptions for such projections, and a conversion of such flows into kilowatts and kilowatt-hours.
<p>Describe the normal annual maintenance outage for the plant, including timing and expected duration. List major outages planned during the contract period:</p>
<p>Estimate the daily variability of flows which can be used to forecast the range in daily net energy output from the project:</p>
<p>Contingencies that could affect the availability of water flow and head to the facility:</p> <p>Include:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Present or future issues regarding fish or other concerns that could possibly place operational restrictions on the project.

<input type="checkbox"/> Available hours of draw-down from any water storage at the project assuming full generator output, reservoir draw-down capability and downstream flow restrictions.
<ul style="list-style-type: none"> ▪ Plant configuration: ▪ Year built: ▪ Equipment ratings: ▪ Number of units: ▪ Ending date of the current license:
<input type="checkbox"/> Provide the detailed analysis used to estimate the annual and monthly net energy output of the hydroelectric project.
<input type="checkbox"/> List and individually quantify all sources of losses, and provide the basis for quantification.

Resource Output

<p>For <i>all proposals</i>, provide the following information on the quantity of firm energy and peak capacity, if applicable, offered to PGE from the project. The amount offered must be the quantity of firm energy and capacity metered at the POD.</p>
<p>Project name:</p>
<p><i>Guaranteed Availability Factor</i> Provide a Guaranteed Availability Factor (GAF) for all proposals:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Products that can supply the contracted quantity of megawatts per hour on a firm basis during all hours of the contract term will be deemed to provide a 100 percent GAF. The GAF should be a monthly value, and not include annual scheduled maintenance. <input type="checkbox"/> Annual maintenance outages must not be scheduled between November 1 and February 28, and between July 1 and September 30. <input type="checkbox"/> For year-around products, scheduled maintenance shall not exceed 400 hours per year, except for major overhauls required under a manufacturer’s long-term service agreement. <input type="checkbox"/> Scheduled maintenance outage hours in excess of this requirement will be charged against the GAF. <input type="checkbox"/> Provide detailed information, including proposed dollar amounts, on how Bidder proposes to compensate PGE if the generating project fails to meet its GAF, <i>i.e.</i>, full compensation for replacement power, liquidated damages or other mechanisms (see PGE sample Contracts)
<p><i>Monthly Energy and Peak Capacity</i></p> <ul style="list-style-type: none"> <input type="checkbox"/> Provide a table displaying by month for the entire term of the bid, the guaranteed monthly quantity of energy (MWh) and peak capacity (MW) to be supplied under the bid proposal, as metered at the POD. If appropriate, include the guaranteed heat rate (Btu/kWh-HHV) at rated output in the table, accompanied by a heat rate curve.

Temperature Variability

For each project used to supply a bid, provide if appropriate, the following information.

<p>Project name:</p>
<ul style="list-style-type: none"> <input type="checkbox"/> To the extent that the guaranteed quantity of energy, peak capacity, or heat rate in the bid is dependent on ambient temperature, clearly identify and describe the relationship and provide estimates for the range of variation. <input type="checkbox"/> At a minimum, provide an estimate for the guaranteed quantity of energy, peak capacity and heat rate for a hot summer day and a cold winter day.

Resource Variability

Project name:
<ul style="list-style-type: none"> <input type="checkbox"/> Proposals that offer a delivery schedule other than a flat schedule as requested by the product term sheets must include a clear description of the proposed delivery schedule and its relationship with the actual production of the project. <input type="checkbox"/> Supply in a table the variation in energy output by month during on-peak and off-peak hours (see sample table, below). <input type="checkbox"/> Expand upon the information provided in the table if this format is insufficient to fully describe the output variability of the bid.

Monthly Output Variability of the Bid (MWh)

<i>Month</i>	<i>Average Energy On-Peak (MWh)</i>	<i>Average Energy Off-Peak (MWh)</i>
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		

Information for Cogeneration Projects

Name: Corporate owner: Industrial process at the site:
Describe in detail the effects that the loss of the cogeneration host would have on continued operation of the cogeneration project, including output, operational flexibility and price.
Pertinent operational information concerning the steam host:

Other Factors Affecting Resource Variability

For each project used to supply a bid, provide if appropriate, the following information.

Project name:
Identify and describe in detail: <input type="checkbox"/> Environmental restrictions. <input type="checkbox"/> Operational limitations. <input type="checkbox"/> Other factors relevant to resources supporting a bid that may prevent the resource from meeting its guaranteed monthly quantities of energy or peak capacity.

Power Product Flexibility

Project name:
For all proposals: <input type="checkbox"/> Completely describe all dispatch and operating schedule flexibility available to PGE <i>via</i> the power product.
For energy product offers: Describe any restrictions or limitations on PGE’s right to dispatch, curtail, or schedule reduced energy output from the product. For dispatch or curtailment describe: <ul style="list-style-type: none"> ▪ Minimum run time per dispatch call: ▪ Minimum down time per curtailment: ▪ Startup time and costs for a cold start: ▪ Startup time and costs for a hot start: ▪ Cost impact of dispatch, if any: ▪ Ramping rates: ▪ Multiple party output issues:
For energy product offers: For turn-down (operation at below 100 percent of base output), provide the following: <ul style="list-style-type: none"> ▪ Minimum turndown value: ▪ Maximum hour-to-hour adjustment: ▪ Cost impact of turndown, if any: ▪ Multiple party output issues: Please provide Information about heat rate degradation for plant turn-down:
Will PGE have the right to make real time adjustment to pre-schedules? If so, under what conditions will this right be limited? Will PGE have the right to request inter-hour shaping? If so, under what conditions?
Is Bidder willing to give PGE the discretion to schedule annual maintenance? If so state any conditions on such scheduling.

How will this the operating flexibility associated with dispatchability, turndown, real time adjustments and inter-hour shaping affect O&M costs and capital replacements?
How does the Bidder envision PGE communicating its needs for operational flexibility to the project, and how will the project respond to such needs:
What other operating flexibility is provided by the project that is not adequately described above?
<input type="checkbox"/> Describe in detail the features in project design that will enable the project to provide this operating flexibility.

Rights to Firm Capacity

For each project used to supply a bid, provide if appropriate, the following information.

Project name:
<input type="checkbox"/> If the Bidder is offering only a portion of the project's firm peak capacity to PGE, describe each entity's rights to the firm peak capacity produced by the project.
<input type="checkbox"/> Describe the process for coordinating the differing operational requirements of the purchasers.

Additional Project-Specific Benefits

Project name:
<input type="checkbox"/> For all proposals, if you believe that there are other project-specific benefits that PGE would find attractive, describe such benefits and the basis for your belief that PGE would find them attractive.

Physical Characteristics of Project

For bids supplying power products from a specific generating project, or in the case of a portfolio from several generating projects, provide a reasonably detailed description of the project(s), including the information requested below.

Location and Size of Project

Project name: Location: Initial in-service date(s): Baseload capacity (MW): Expected monthly and annual energy generation (MWh):
--

Resource Base of Capacity Product

<ul style="list-style-type: none"><input type="checkbox"/> Describe the project site(s), including a description of the facilities of any thermal energy users and any other major structures related to the production of electricity or thermal energy.<input type="checkbox"/> Concisely describe the technology used for the generation of electricity, including a technical description of, and vendor for, each turbine generator and emissions control technology, as applicable, and each principal fuel or energy source to be used.<input type="checkbox"/> Provide the necessary design documents that will enable PGE to evaluate the engineering design and equipment used for transmission interconnection.<input type="checkbox"/> Provide any additional design documents that would enable PGE to evaluate the engineering design, equipment and layout of the project.<input type="checkbox"/> Describe all licensing and regulatory requirements.

O&M Reliability

For each project used to supply a bid, provide the following information.

Project name:
Describe the experience and expertise of the project's current O&M operator and the recent operating experience(s) of the plant(s). <ul style="list-style-type: none"><input type="checkbox"/> Describe any training program for the plant staff.<input type="checkbox"/> Does the project have access to support from a centralized engineering staff? If so, please describe.<input type="checkbox"/> Provide a list of the major critical spare parts held in inventory by the project, either at the site or at a common inventory location, or indicate if such parts are readily available from the vendor.<input type="checkbox"/> Are spare transformers installed at the site for backup?<input type="checkbox"/> Does the project have a long-term service agreement with the vendor for major equipment?

<p>Describe the level of participation that PGE would be given in capital and O&M decisions that could affect reliability of plant operations.</p> <p>Would PGE have any rights to require replacement of the plant operator?</p> <p>If so, under what conditions would PGE have such rights?</p> <p>Describe the Bidder's asset management strategy for future operation of the project.</p>

Information for Projects under Development

<p>For bids supplying power products from specific generating projects that will not be in commercial operation by July 1, 2003, please supply the following additional information.</p>
<p><i>Project name:</i></p>
<p><i>Permitting and Licensing Status</i></p> <ul style="list-style-type: none"><input type="checkbox"/> List and describe the current status and jurisdictional responsibility for all licenses, permits, zoning variances, and other regulatory approvals necessary for the construction and operation of the project.<input type="checkbox"/> Status categories include: approved, not approved but application submitted, working on application, work on application has not begun.<input type="checkbox"/> For each license, permit, zoning variance and regulatory approval that has not yet been obtained, show the sequencing and duration of permitting and licensing activities in a project schedule diagram, including expected construction time.<input type="checkbox"/> For projects in the permitting and licensing phase, identify whether there is opposition to the siting of this project and how this opposition impacts project permitting.<input type="checkbox"/> Discuss in general terms your approach for resolving these permitting issues or any planned mitigation measures.<input type="checkbox"/> Could any of these permitting issues prevent successful siting of the project?

<p><i>Progress to Date</i></p> <ul style="list-style-type: none"><input type="checkbox"/> Describe the progress in development or construction of the project to date, including a description of any contracts or letters of intent signed in connection with the project, or a description of other factors demonstrating project progress.<input type="checkbox"/> Include current status of project design and engineering, and equipment procurement.

Milestone Schedule

Submit an overall milestone schedule for the generating project that identifies all key dates including but not limited to dates for regulatory approvals, finalization of transmission and interconnection agreements, finalization of fuel supply agreements, pre-construction milestones and construction milestones. The schedule that is submitted must be attainable and one to which the Bidder will commit to in the executed agreement. Include all aspects of the development including fuel and transmission infrastructure activities.

Project name:

Experience of Developer Team

Provide the following information:

- Describe the developer's participation in successfully developing power production projects in the U.S., emphasizing projects located in the Pacific Northwest and similar to the project proposed in the bid.
- List members of the development team.
- Provide a resume for each individual, including training, experience with power project development, functions performed, and area of expertise.
- Summarize the current status and a short description of power project development efforts with which team members have been involved. The summary for each team member should include the type of projects developed, e.g., wind, CCCT, biomass, current owner of the projects, geographic location and current status, e.g., operating, in construction, permitted, retired.
- Describe business-related litigation in which the developer or development team members were previously, are currently or are expected to be engaged.

Financial Plans

Provide the financial information listed below to the extent the information is currently available:

Project name:

- Describe whether the Bidder intends to internally finance construction of specific generating project(s), or plans to obtain project financing from another source.
- Describe any existing commitments by financial institutions and provide documentation supporting these commitments. *In lieu* of such information, describe the plans for securing such commitments.

List the name, telephone number and contact person of the developer's:

Commercial bank:

Financial advisor:

Bond underwriter:

Other key financial trustee, advisor, counsel or lender:

- | |
|---|
| <p><input type="checkbox"/> Provide a list of projects in the development phase, identifying the manufacturer of the principal components, counterparties in power sales agreement(s), the stage of completion of the project, the estimated operational date, the original estimated operational date, the percentage the project is over- or under-budget, and the project financing sources.</p> |
| <p><input type="checkbox"/> Identify the extent to which the developer is committed to providing additional assets if necessary to complete the project.</p> |
| <p><input type="checkbox"/> Has the Bidder already committed to proceed with construction of specific generating projects? If not, what actions or events would need to occur before the Bidder can commit to such construction?</p> |
| <p><input type="checkbox"/> If the decision to proceed with the generating project depends on obtaining power purchase and tolling agreements with third parties, please identify the amount of the project output that needs to be subscribed before the Bidder will proceed with construction, and the amount of firm commitments through executed agreements that the Bidder already has for output from the project.</p> <p><input type="checkbox"/> Identify the counterparty, product amount and term of each executed agreement.</p> |

- | |
|--|
| <p><i>Site Control</i></p> <p>Site control is an important factor in our RFP evaluation, and should be interpreted to include the site itself, along with all required easements and access required for the site.</p> <p>Project name:</p> <p><input type="checkbox"/> Describe the level of control of the generation project site, e.g., ownership, lease, option, letter of intent.</p> <p><input type="checkbox"/> If the Bidder does not have control over the project site, describe the actions already taken to obtain control of the site.</p> |
|--|

- | |
|---|
| <p><i>Environmental Characteristics</i></p> <p><input type="checkbox"/> Bidders supplying the product from a portfolio of resources and contracts should provide an estimate of energy production from the portfolio in terms of fuel type, e.g., 60 percent natural gas, 20 percent coal, 10 percent wind, 10 percent hydro. If the fuel source for contracts is unknown, list contracts as a separate category.</p> |
| <p>If supplying the product from one or more specific resources, provide the following information for each resource.</p> <p><input type="checkbox"/> Project name:</p> <p><input type="checkbox"/> Discuss known environmental issues related to the development and operation of the project.</p> <p><input type="checkbox"/> Describe environmental impacts of, and existing environmental constraints on, existing and proposed projects.</p> <p><input type="checkbox"/> Provide the information requested in the following subsections for <i>existing and proposed</i> projects.</p> |

Air Quality

Complete the following table, and provide the information requested below.

Emission Disclosures

<i>Emission</i>	<i>Lbs./MWh</i>
Sulfur Dioxide: Nitrogen Oxide: Carbon Dioxide: Particulate:	

Project name:
Describe the following: <input type="checkbox"/> Air pollution controls used on the project, e.g., type, emissions controlled and removal efficiency. Also describe any new controls that might be required in the future due to the Clean Air Act, e.g., Maximum Achievable Control Technology (MACI) Standards. <input type="checkbox"/> Whether the proposed project will exceed any criteria of the National Ambient Air Quality Standards (NAAQS) for any pollutant when operating on either primary or backup fuel. Also describe the "Prevention of Significant Deterioration Increment Consumption" due to this project, as applicable.
State whether the project requires a federal or state "air permit": <input type="checkbox"/> If relevant, include a copy of this permit, if approved, or a copy of the permit application, if submitted.
Describe any significant toxic air pollutants that may be released from the project:

<i>Land Use (for proposed projects only)</i>
Project name:
Is the proposed project consistent with the recommended uses of adopted local and state land use plans?
Will the project need a zoning change?
If there is likely to be public controversy related to the proposed project, please explain.

<i>Noise (for proposed projects only)</i>
Project name:
Characterize the ambient day and night sound environment in the area surrounding the project site.
Provide estimates for the day and night noise levels of the proposed project.
Describe proposed sound attenuation strategies or equipment planned for the project.

<i>Project name:</i>
<i>Scenic Visibility (for proposed projects only)</i> Give the distance in miles that the project, or its effect, will be visible from any of the locations described in the following table:

Scenic Visibility Effects

<i>Feature</i>	<i>Distance from Project (Miles)</i>
<ul style="list-style-type: none"> ▪ State parks or state forest preserves. ▪ National wildlife refuges or state game refuges. ▪ National natural landmarks or other outstanding natural features. ▪ National park service lands. ▪ Rivers designated as wild, scenic or recreational. ▪ Designated wilderness areas. 	

<i>Threatened and Endangered Species</i>
Project name:
If the project site or contiguous areas contain any species of plant or animal life identified as threatened or endangered, please explain.
If the project site contains any plants or animals being proposed or considered as candidates for threatened or endangered lists, please explain.

Fish and Wildlife

Project name:

- Provide copies of wildlife studies that have been performed for the project.
- For proposed hydroelectric projects, discuss whether in-stream flow studies will be required and the results from such studies.
- For proposed hydroelectric projects, discuss whether fish passage facilities will be required.

Mitigation

Project name:

Briefly describe any environmental mitigation methods, both required and volunteered, that are included as part of an operating project or will be included as part of a proposed project. Include cost of meeting the State of Oregon's carbon dioxide standard, through payments to the Climate Trust, or similar payments in other states.

Appendix K - Confidentiality and Non-Disclosure Agreement

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

THIS CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT (“Agreement”) is made effective as of the ___ day of ____ 2011 by and between PORTLAND GENERAL ELECTRIC COMPANY (“PGE”), having its principal office at 121 SW Salmon Street, Portland, Oregon 97204 and _____ (“Counterparty”), having its principal office at _____. Throughout this Agreement PGE and Counterparty may sometimes be individually referred to as a “Party” and collectively as the “Parties.”

WHEREAS, PGE is in the process of acquiring electricity resources to fulfill certain electricity resource needs, and pursuant thereto had filed an Integrated Resource Plan (IRP) with the Oregon Public Utility Commission (OPUC), which IRP Plan the OPUC had acknowledged; and

WHEREAS, PGE will issue a Request For Proposals (RFP) to fulfill those resource needs; and

WHEREAS, the Parties desire to investigate the possibility of executing a transaction (the Transaction) to meet some of PGE’s needs; and

WHEREAS, in order to pursue that possibility, PGE and Counterparty will provide to each other certain information which the providing Party considers to be proprietary and confidential.

NOW THEREFORE, the Parties agree as follows:

The disclosure of confidential information pursuant to this Agreement is subject to the following conditions and limitations:

1. As used herein, “Confidential Information” means all oral or written non-public, confidential or proprietary information given or otherwise delivered by one Party (hereinafter the “Disclosing Party”) to the other Party (hereinafter the “Receiving Party”), designated in writing or stamped as “confidential” at the time of delivery to the Receiving Party or its directors, officers, employees, representatives, advisors, contractors or agents (collectively, “Representatives”), by the Disclosing Party or its Representatives, together with analyses, compilations, studies, notes or other documents prepared by the Receiving Party or its Representatives which contain or reflect Confidential Information; provided, however, that oral information that is not confirmed as Confidential Information in writing within four (4) business days of disclosure to the Receiving Party shall not be considered Confidential Information under this Agreement; provided further that such confirming writing shall state with particularity the oral information disclosed, the identity of the Disclosing Party’s Representative who made the oral disclosure, the identity of the Receiving Party’s Representative who received the oral

information, and the date, time and place of said disclosure. Confidential Information does not include information which (a) is, or becomes, publicly available, other than through the wrongful act of the Receiving Party; (b) was in the possession of the Receiving Party prior to receipt from the Disclosing Party, (c) is independently developed by the Receiving Party, provided that it was not derived from any Confidential Information received from the Disclosing Party, or (d) information that was obtained by the Receiving party from a third person who, insofar as is known to the Receiving Party, is not prohibited from transmitting the information by a contractual, legal or fiduciary obligation.

2. The term “person” as used in this Agreement, shall be interpreted broadly to include, without limitation, any corporation, company, entity, partnership, group, regulatory agency, or other governmental entity, or individual.

3. Except as otherwise required by law, rules or regulations, the Receiving Party agrees that it will, in the same manner as it protects its own confidential information, hold in trust and confidence and not disclose any Confidential Information to any person not authorized by this Agreement.

4. The Receiving Party agrees that the Confidential Information will not be used for any purpose other than in connection with the Transaction or as otherwise permitted by this Agreement. The Receiving Party will restrict access to Confidential Information to such of its Representatives who have a need to know as is reasonably necessary for the purposes described herein. Each such recipient of Confidential Information shall be informed by the Receiving Party of its confidential nature, and shall be directed to treat such information confidentially and shall agree to abide by the provisions of this Agreement, In any event, the Receiving Party shall be responsible for any breach of this Agreement by any person to whom it discloses Confidential Information, other than disclosures pursuant to paragraph 5 of this Agreement.

5. In the event that the Receiving Party is required by subpoena, oral deposition, interrogatories, request for production of documents, administrative order, process or otherwise, to disclose any Confidential Information, the Receiving Party shall give the Disclosing Party notice of same as soon as reasonably practicable so that the Disclosing Party may seek an appropriate protective order or waive compliance with the terms of this Agreement. If, in the absence of a protective order or waiver, the Receiving Party is compelled to disclose any Confidential Information, the Receiving Party may make such disclosure without any liability under this Agreement, and to the extent permissible, will give the Disclosing Party prior notice of such disclosure. PGE may disclose Confidential Information pursuant to any one or more of the following Protective Orders (or other Protective Order(s) that may be issued by the OPUC in connection with the RFP): Order No. 11-096 dated March 25, 2011 and Order No. 11-097 dated March 25, 2011 (as such Orders may be modified by the OPUC) under this Section 5. In addition, PGE may disclose Confidential Information to the Independent Evaluator retained by PGE and approved by the OPUC for the RFP pursuant to this Section 5.

6. Counterparty acknowledges and agrees that PGE may, subject to the confidentiality provisions contained in this Agreement and the terms of any RFP documentation delivered by PGE to Counterparty, use its Confidential Information generally in the RFP process.

7. Neither Party is obligated by this Agreement to enter into any negotiations or any transaction. Each Party will bear its own costs and expenses, including legal fees and fees of any advisors and the costs incurred by it in the development of appropriate documentation with respect thereto. The Parties agree that no joint venture, partnership or other fiduciary relationship shall be deemed to exist or arise between them as a result of this Agreement.

8. The Receiving Party understands and agrees that money damages would not be a sufficient remedy for any breach of this Agreement and that the Disclosing Party shall be entitled to injunctive relief as well as reimbursement by the Receiving Party for legal and other expenses as a remedy for any such breach, including expenses for any appeal therefrom or review thereof so long as the Disclosing Party prevails. Such remedy shall not be deemed to be the exclusive remedy for the breach of this Agreement but shall be in addition to all other remedies available at law or in equity.

9. It is understood and agreed that no failure or delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.

10. This Agreement constitutes the entire agreement of the Parties with respect to the matters contained herein, and supersedes all prior understandings or agreements, written or oral, on these matters. No waiver or amendment of this Agreement shall be effective unless it is in writing and signed by both Parties.

11. The confidentiality obligations of this Agreement shall remain in effect for two (2) years from the date hereof.

12. This Agreement shall be governed by and construed under the laws of the State of Oregon without regard to its conflicts-of-laws or principles. With respect to any suit, action or proceedings relating to this Agreement (the "Proceedings"), each Party irrevocably submits to the exclusive jurisdiction of the courts of the State of Oregon and the United States District Court located in Multnomah County, Oregon and irrevocably waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court, waives any claim that such Proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such Proceedings, that such court does not have jurisdiction over such Party. Nothing in this Agreement precludes either Party from enforcing in any jurisdiction any judgment, order or award obtained in any such court.

13. **PGE AND COUNTERPARTY WAIVE ANY RIGHT TO TRIAL BY JURY OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE, BETWEEN PGE AND COUNTERPARTY ARISING OUT OF THIS AGREEMENT OR OTHER INSTRUMENT, DOCUMENT, OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith.**

IN WITNESS WHEREOF, the Parties have executed this Agreement by and through their duly authorized representatives, effective as of the day first above written.

PORTLAND GENERAL ELECTRIC (COUNTERPARTY)
COMPANY

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused **PGE'S FINAL DRAFT RFP** to be served by electronic mail to those parties whose email addresses appear on the attached service list for OPUC Docket UM 1535.

Dated at Portland, Oregon, this 23rd day of May, 2011.



V. DENISE SAUNDERS, OSB # 903769
Assistant General Counsel
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**SERVICE LIST –
OPUC DOCKET # UM 1535**

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Appendix E

ASSET PURCHASE AGREEMENT

by and between

PORTLAND GENERAL ELECTRIC COMPANY

and

Dated _____

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This ASSET PURCHASE AGREEMENT (“Agreement”) is entered into effective as of the _____ day of _____, 2011 (“Effective Date”), by and between [Counterparty], a [STATE] corporation (“Counterparty”) with an office at [Address}, and Portland General Electric Company, an Oregon corporation (“PGE”) with an office at 121 SW Salmon Street, Portland, OR 97204. PGE and Counterparty are also referred to herein individually as a “Party” and collectively as the “Parties.”

1. Recitals

WHEREAS, Counterparty owns the Assets, described in detail in Exhibit A, for generation of electricity from _____ resource in _____ County, State of _____; and

WHEREAS, PGE desires to acquire [all or a portion of] the rights of Counterparty in the Assets.

Now, therefore, in consideration of the foregoing premises and the representations, warranties, covenants and agreements contained herein, the adequacy and sufficiency of which are hereby acknowledged, the Parties agree as follows:

2. Definitions

2.1 “AAA” has the meaning given in Section 18.1 of this Agreement.

2.2 “Applicable Law” means all laws, treaties, ordinances, judgments, decrees, injunctions, writs, orders, rules, regulations and interpretations of any Governmental Authority having jurisdiction over (i) the Assets or (ii) this Agreement.

2.3 “Arbitration Notice” has the meaning given in Section 18.1 of this Agreement.

2.4 “Assets” has the meaning given in Section 9 as more particularly described in Exhibit A.

2.5 “Assumed Liabilities” are (a) only those obligations of Counterparty relating to the Assets accruing or arising from and after the Closing Date and (b) without in any way broadening the scope of this definition of Assumed Liabilities as described in the Section 2.5(a), Assumed Liabilities shall not include (i) any liability of Counterparty or its affiliates for taxes accruing or arising before the Closing Date, (ii) any liability of Counterparty or its affiliates for the unpaid taxes of any person under Reg. § 1.1502-6 (or any similar provision of state or local law), as a transferee or successor, by contract, or otherwise, or (iii) any liability of Counterparty or its affiliate for costs and expenses incurred in connection with this Agreement and the transactions.

2.6 “Bankrupt” means with respect to any entity, such entity (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it and such petition filed or commenced

against it is not dismissed after ninety (90) days, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

2.7 “Business Day” means every day other than Saturday, Sunday or a day that banks are permitted or required to remain closed in the State of Oregon.

2.8 “Capacity MW” means ____of capacity of MW that the Assets are capable of generating as certified by a Licensed Professional Engineer chosen by PGE.

2.9 “Closing Date” means _____.

2.10 “Counterparty Indemnified Party” has the meaning given in Section 20.2 of this Agreement.

2.11 “Credit Rating” means (i) with respect to any entity other than a financial institution, the (a) current ratings issued or maintained by S&P or Moody’s with respect to such entity’s long-term senior, unsecured, unsubordinated debt obligations (not supported by third party credit enhancements) or (b) corporate credit rating or long-term issuer rating issued or maintained with respect to such entity by S&P or Moody’s, or (ii) if such entity is a financial institution, the ratings issued or maintained by S&P or Moody’s with respect to such entity’s long-term, unsecured, unsubordinated deposits.

2.12 “Defaulting Party” shall have the meaning given in Section 6 of this Agreement.

2.13 “Encumbrances” means any claim, lien, pledge, mortgage, option, charge, easement, security interest, right-of-way, encumbrance, lease, interest, mineral reservations, covenant, conditional sales contract, title retention arrangement, adverse claim or restriction of any kind or other right of third parties.

2.14 “Environmental Laws” means all laws that regulate or relate to (i) the protection or clean-up of the environment, (ii) the handling of Hazardous Substances, (iii) the preservation or protection of waterways, groundwater, drinking water, air, wildlife, plants or other natural resources, and (iv) the health and safety of persons or property as it pertains to the environment, including, without limitation, protection of the health and safety of employees. Environmental Laws shall include, without limitation, the Resource Conservation & Recovery Act, Clean Water Act, Safe Drinking Water Act, Occupational Safety and Health Act, Toxic Substances Control Act, Clean Air Act, Comprehensive Environmental Response, Compensation and Liability Act, Emergency Planning and Community Right-to-Know Act, Hazardous Materials Transportation Act, and Centers for Disease Control guidelines, policies and procedures, and all analogous or related laws.

2.15 “Event of Default” has the meaning given in Section 6 of this Agreement.

2.16 “Force Majeure Event” means any event that wholly or partly prevents or delays the performance of any obligation under this Agreement, but only if and to the extent that:

2.16.1 such event is not within the reasonable control, directly or indirectly, and not the fault, of the affected Party; and

2.16.2 such event, despite the exercise of reasonable diligence, cannot be prevented or avoided by the affected Party.

A Force Majeure Event shall include, but is not limited to, an event that falls within one or more of the following categories: condemnation, expropriation, invasion, plague, drought, landslide, explosion, fire; underground conditions, tornado, hurricane, tsunami, lightning, flood, earthquake and other abnormally severe weather other than at the site of the Assets, epidemic, quarantine, acts of terrorism, war (declared or undeclared) or other armed conflict, strikes and other labor disputes (including collective bargaining disputes and lockouts) of a regional or national scope, riot, revolution, insurrection or similar civil disturbance or commotion, acts of God, acts of the public enemy, blockade, port closure, sabotage or vandalism, embargoes, accidents, casualties or delays with respect to transportation, including, but not limited to, stranding, sinking or collision of the carrier, or closure or restriction of roads or other transportation route by a Governmental Authority or otherwise due to weather impacts or restrictions, and actions or inactions of a Governmental Authority (provided that such actions or inactions are not due to an action or proceeding commenced by the affected Party or the failure of the affected Party to obtain a permit or authorization from such Governmental Authority).

2.17 “Governmental Authority” means any federal, state, local or other governmental, judicial, public or statutory instrumentality, tribunal, agency, authority, body or entity, or any political subdivision thereof, having legal jurisdiction over the matter or person in question.

2.18 “Hazardous Substances” means any hazardous material, hazardous commodity, hazardous waste, or hazardous substance defined or regulated as such in or under Applicable Laws regulating, relating to or imposing liability or standards of conduct concerning the protection of human health or the environment.

2.19 “Interest Rate” means, for any date, the lesser of (i) the maximum amount allowed by applicable law or (ii) the Federal Funds Rate for the holding period plus 200 basis points (2.00). “Federal Funds Rate” means the effective Federal Funds Rate as published daily by the Federal Reserve Bank H.15 Statistical Release website for each day of the holding period. Such interest shall be calculated on the basis of the actual number of days elapsed over a year of 360 days.

2.20 “Intellectual Property Rights” means intellectual property rights owned, used or licensed by Counterparty, including copyrights, patents, industrial design rights, trade secrets, know how, mask works, software, firmware, specifications, designs,

drawings, processes, data, and other proprietary information relating to the Assets, any training process relating to the foregoing, and the contents of any service manuals and test and inspection procedures.

2.21 “Letter(s) of Credit” means one or more irrevocable, transferable, standby letters of credit issued by a major U.S. commercial bank or a U.S. branch office of a major foreign commercial bank with such bank having shareholders’ equity of at least \$10 billion USD and a Credit Rating of at least A1 from Moody’s or A+ from S&P, in a form and substance reasonably acceptable to the beneficiary Party. The costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.

2.22 “Letter of Credit Default” means with respect to a Letter of Credit, the occurrence of any of the following events: (i) the issuer of such Letter of Credit shall fail to be a major U.S. commercial bank or a U.S. branch office of a major foreign commercial bank with such bank having shareholders’ equity of at least \$10 billion USD and a Credit Rating of at least A1 from Moody’s or A+ from S&P; (ii) the issuer of the Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit; (iii) the issuer of such Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit; (iv) such Letter of Credit shall be within 15 Business Days of expiration or shall terminate, or shall fail or cease to be in full force and effect at any time during the applicable period, in any such case without replacement; (v) the issuer of such Letter of Credit shall become Bankrupt; or (vi) a merger event occurs with respect to the issuer of such Letter of Credit; provided, however, that no Letter of Credit Default shall occur or be continuing in any event with respect to a Letter of Credit after the time such Letter of Credit is required to be canceled or returned in accordance with the terms of this Agreement.

2.23 “Licensed Professional Engineer” means a person acceptable to PGE in its sole opinion who (i) is licensed to practice engineering in the state where the Assets are located, (ii) has training and experience in the [insert type of renewable technology] power industry, (iii) has no economic relationship, association, or nexus with the Counterparty, (iv) is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Assets, or of a manufacturer or supplier of any equipment installed as part of the Assets, and (v) is licensed in an appropriate engineering discipline for the required certification being made.

2.24 “Material Adverse Change” means (i) with respect to PGE, PGE shall have a Credit Rating below BBB- by S&P and below Baa3 by Moody's or both ratings are withdrawn or terminated on a voluntary basis by the rating agencies, (ii) with respect to Counterparty, Counterparty shall have a Credit Rating below BBB- by S&P and below Baa3 by Moody's or both ratings are withdrawn or terminated on a voluntary basis by the rating agencies, if rated by both services. If Counterparty is rated by only one service, a Material Adverse Change shall occur if its rating falls below the pertinent level specified above for the applicable rating agency or if such rating is withdrawn or terminated on a voluntary basis by the rating agency.

2.25 “Monthly Progress Report” has the meaning specified in Section 5 of this Agreement.

2.26 “Performance Assurance” means cash or a Letter of Credit in an amount equivalent to the Termination Payment as determined in Section 7 and Exhibit D.

2.27 “PGE Indemnified Party” has the meaning given in Section 20.1.

2.28 “Purchase Price” means the price PGE shall pay Counterparty for the Assets, as more particularly described on Exhibit B.

2.29 “Rules” has the meaning given in Section 18.1 of this Agreement.

2.30 “Scope Changes” has the meaning given in Section 13.1.

2.31 “Scope Change Order” has the meaning given in Section 13.1.

2.32 “Termination Payment” means amounts calculated in Section 7 and Exhibit D.

2.33 “Work” means the services and work, if any, to be provided, or caused to be provided, by or through Counterparty under this Agreement for the Purchase Price, as more particularly described in Exhibit C, as the same may be amended from time to time in accordance with the terms hereof.

3. Representation

Each Party represents and warrants to the other Party that:

3.1 it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

3.2 it has all regulatory authorizations necessary for it to legally perform its obligations under this Agreement;

3.3 the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;

3.4 this Agreement, and each other document executed and delivered in accordance with this Agreement, constitutes its legally valid and binding obligation enforceable against it in accordance with its terms;

3.5 it is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it, which would result in it being or becoming Bankrupt;

3.6 there is not pending or, to its knowledge, threatened against it or any of its affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement;

3.7 no Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement; and

Counterparty represents, covenants and warrants that:

3.8 it is the true and lawful owner of the Assets and has good and marketable title to the Assets and good and lawful right to transfer the Assets; and

3.9 the Assets shall be maintained free of all liens and encumbrances through the Closing Date.

4. Scope of Work for Counterparty

PGE hereby retains Counterparty, and Counterparty hereby agrees to be retained by PGE, to perform or cause to be performed all Work, as more particularly described in Exhibit C, in accordance with the terms and conditions of this Agreement.

5. Milestone Dates, and Delay Damages

If, and to the extent applicable, any Milestones below are not achieved by the Milestone Date (specified in the chart below) then Counterparty shall pay PGE the Delay Damages (specified on chart below) within three (3) Business Days after each affected Milestone Date. On the written notification of completion of each Milestone, if applicable, PGE shall pay, within three (3) Business Days, the applicable progress payment. If such completion is after the applicable Milestone Date, payment by PGE shall be net of any Delay Damages due PGE.

Milestones, Progress Payments, Milestone Dates, and Delay Damages

Milestone	Progress Payment	Milestone Date	Delay Damages
(Delay of achievement of any Milestone may be an Event of Default under Section 6)	(To be paid to Counterparty within 3 Business Days after receipt of written completion notice, unless completion is disputed by PGE)		
Site Acquisition (leases, fee title, easements,			

etc)			
Permit Acquisition			
Design			
Financing Acquisition			
Equipment Purchase Order			
Equipment Shipped			
Equipment Delivery			
Construction			
Testing/Commissioning			
Achieve Capacity MW			

Counterparty shall not be relieved from the obligation to meet any Milestone Date unless such date is extended pursuant to a written notice from PGE. The current portion of the Milestones and any update shall be presented electronically on a weekly basis and in such reasonable detail as PGE may require and shall address all material elements of the Work. If applicable, Counterparty shall submit to PGE, not later than the fifth (5th) day of each month, a detailed report of the progress of the Work (each a “Monthly Progress Report”). Additionally, an updated and complete Work schedule shall be made available to the PGE monthly, and as otherwise reasonably requested by PGE. The representatives of PGE, PGE’s subcontractors, if any, and Counterparty shall attend and participate in daily planning meetings to review the status of the Work. Counterparty shall promptly notify PGE in writing at any time that Counterparty has reason to believe that there shall be a material deviation in the Work Schedule from the Milestones including any revisions, and shall set forth in such notice the corrective action planned by Counterparty. Delivery of such notice shall not relieve Counterparty of its obligation to meet the Milestone Dates specified hereunder.

6. Events of Default

An “Event of Default” shall mean, with respect to a Party (a “Defaulting Party”), the occurrence of any of the following:

6.1 a Material Adverse Change with respect to such Party has occurred and is continuing; provided, that such Material Adverse Change shall not be considered an Event of Default if the Defaulting Party establishes and maintains for so long as the

Material Adverse Change is continuing, Performance Assurance to the Non-Defaulting Party in an amount equivalent to the Termination Payment as determined in Section 7 and Exhibit C;

6.2 the failure of such Party to make, when due, any Delay Damages or other payment required pursuant to this Agreement, provided such failure is not remedied within two (2) Business Days after written notice;

6.3 any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated;

6.4 the failure of such Party to perform any material covenant or obligation set forth in this Agreement;

6.5 such Party becomes Bankrupt;

6.6 the failure of such Party to establish, maintain, extend or increase Performance Assurance when required under this Agreement;

6.7 the occurrence and continuation of (i) a default, event of default or other similar condition or event in respect of such Party or any other party specified for such Party under one or more agreements or instruments, individually or collectively, relating to indebtedness for borrowed money in an aggregate amount of not less than _____ (the "Cross Default Amount"), which results in such indebtedness becoming immediately due and payable or (ii) a default by such Party or any other party specified for such Party in making on the due date therefore one or more payments, individually or collectively, in an aggregate amount of not less than the applicable Cross Default Amount as specified herein;

6.8 the occurrence of a Letter of Credit Default;

Additionally, Material Adverse Change with Respect to Counterparty shall include:

6.9 the failure to achieve any Milestone in the reasonable judgment of PGE within thirty (30) days following a Milestone Date or notification of such failure whichever comes first.

6.10 any failure by Counterparty to maintain the insurance coverages required of it in accordance with Section 16, unless such failure is cured within five (5) Business Days of the earlier of written notice from PGE or the date Counterparty becomes aware of such failure;

6.11 if applicable, any abandonment of the Work by Counterparty, where "abandonment" for the purposes of this Section shall mean that Counterparty has substantially reduced personnel at the Site or removed required equipment from the Site such that, in the opinion of an experienced construction manager, Counterparty would not be capable of completing the Milestones;

6.12 if applicable, any of the following occurs: (i) Counterparty fails to supply skilled workers or suitable materials or equipment sufficient to meet the Milestone Dates and to prosecute the Work in accordance with this Agreement; (ii) Counterparty fails to make prompt payments when due to its subcontractors for labor, materials or equipment; (iii) Counterparty suspends performance of a material portion of the Work (other than as permitted under this Agreement); or (iv) Counterparty disregards any provision of any Applicable Law; and if in each of sub-clauses (i) through (iv) of this Section, such condition remains un-remedied for thirty (30) days following written notice thereof by PGE (or for such longer period, not to exceed ninety (90) days, during which time Counterparty diligently pursues the cure of such material breach, if such material breach is capable of being cured); or

6.13 Counterparty disregards instructions given to it by PGE delivered in accordance with this Agreement and does not commence to cure its noncompliance therewith within thirty (30) days after written notice from PGE;

7. Declaration of an Early Termination Date and Calculation of Termination Payment.

If an Event of Default with respect to a Defaulting Party shall have occurred at any time and be continuing, the other Party (the “Non-Defaulting Party”) shall have the right to (i) designate a day, no earlier than the day the Non-Defaulting Party’s termination notice is effective and no later than 20 days after such notice is effective, as an early termination date (“Early Termination Date”), (ii) withhold any payments due to the Defaulting Party under this Agreement and (iii) suspend performance. If an Early Termination Date has been designated, the Non-Defaulting Party shall calculate, pursuant to Exhibit D, the Termination Payment payable hereunder.

8. Termination for Failure to Achieve Partial Capacity MW by Final Completion Date

If the Assets, as built fails to be at least ___ of Capacity MW or more as determined by the Licensed Professional Engineer, PGE may terminate this Agreement and Counterparty shall pay PGE the sum of \$_____ within two (2) Business Days of PGE’s termination notice.

9. Description and Sale of Assets

Counterparty shall grant, bargain, sell, assign, convey, transfer and set over unto the PGE, its successors and assigns the Assets and all of Counterparty’s right, title and interest therein. The Assets include, but are not limited to the following, which are more particularly described in Exhibit A:

9.1 Land;

9.2 Permits, including all local, state and federal licenses, permits and other approvals as may be required by law for the construction, operation and maintenance of the Assets;

9.3 Improvements;

9.4 Equipment;

9.5 Resource data, including weather, survey results or other data collected about the project site of the Assets; and

9.6 All intangible rights, including existing contracts and agreements, and Intellectual Property Rights relating to the Assets;

9.7 The Assets shall, on the Closing Date, be free and clear of all claims, liens, security interests and encumbrances of any nature, and Counterparty shall fully warrant and defend such title against the claims of all persons and entities.

10. Payment for Assets

10.1 Payment.

Provided that Counterparty has performed all of its obligations required to be performed by it under this Agreement by the Closing Date and there is no Counterparty Event of Default, PGE shall by wire transfer, transfer funds equal to the Purchase Price on the Closing Date, less any paid Progress Payments, if applicable, to Counterparty.

On the Closing Date, Counterparty shall deliver to PGE possession of the Assets, and good and sufficient instruments of transfer, conveying and transferring the Assets to PGE. Such delivery shall be made against payment and delivery to Counterparty of the Purchase Price as provided above. The instruments of transfer shall contain covenants and warranties that Counterparty has good and marketable title in and to the Assets. Such instruments of transfer shall include but not be limited to the following:

10.1.1 Deliveries by Counterparty. On or before the Closing Date, Counterparty shall deliver, or cause to be delivered, to PGE the following:

(a) *Assignment and Assumption Agreements.* (i) Two (2) original counterparts of an Assignment and Assumption Agreement in substantially the form of Exhibit E hereto (the “Assignment and Assumption Agreements”), in respect of the sale by Counterparty of all of its right, title and interest in the Assets to PGE and the assumption by PGE of the Assumed Liabilities relating thereto, each such counterpart being properly executed by an authorized representative of Counterparty, (ii) such other instruments of assignment and assumption as PGE and its counsel may reasonably request, and (iii) two (2) original counterparts of all Consents to Assignment and Novation, substantially in the form of Exhibit F hereto between Counterparty and the applicable third party to all contracts relating to the Assets, each such counterpart being properly executed by an authorized representative of Counterparty and the applicable third party.

(b) *Bills of Sale and Warranty Deeds.* (i) Two (2) original counterparts to the Bill of Sale in substantially the form of Exhibit G hereto (the “Bill of

Sale”), each such counterpart being properly executed by an authorized representative of Counterparty in respect of the sale by Counterparty of all of its right, title and interest in the Assets; (ii) for owned real property and interest in owned real property, special warranty deeds in recordable form, properly executed and acknowledged, confirming the conveyance of such real property interests held by or on behalf of Counterparty, each such deed being properly executed by an authorized representative of Counterparty; and (iii) such other instruments of transfer as PGE and its counsel may reasonably request.

(c) *Consents*. Original executed copies of the consents that may be requested by PGE to be provided by Counterparty, each substantially in the form attached hereto as Exhibit H or otherwise in a form reasonably satisfactory to PGE; provided, however, that if requested by Counterparty, PGE shall countersign such consents to evidence PGE’s assumption of the relevant Assumed Liabilities.

(d) *Certificates*. Such certificates of Counterparty’s officers and others as may be reasonably requested by PGE, which shall include, but not be limited to:

1) A certificate executed by an officer of Counterparty, certifying as of the Closing Date (a) a true and correct copy of the corporate action of Counterparty authorizing the execution, delivery and performance of this Agreement and the other Counterparty documents to be executed by it, and the consummation of the transactions contemplated hereby and thereby and (b) incumbency matters.

2) An affidavit from Counterparty, stating, under penalty of perjury, Counterparty’s United States taxpayer identification number and that Counterparty is not a foreign person, pursuant to section 1445(b)(2) of the Code and Treasury Regulation 1.1445-2(b)(2)(iii)(B) (or any similar provision of state or other Tax Law).

(e) *Tax Matters*. Any document(s) that may be reasonably requested by PGE and required by any state taxing authority in order to relieve PGE of any obligation to withhold taxes with respect to any portion of the payments to Counterparty under this Agreement.

10.2 *Additional Documents*. All other documents which are reasonably necessary to consummate the transactions contemplated hereby or reasonably necessary to demonstrate or evidence the delivery of the items required to be delivered hereunder.

10.3 Assumption of Liabilities.

On the Closing Date and subject to the terms and conditions of this Agreement, PGE shall assume and become responsible for the Assumed Liabilities. For the avoidance of doubt, PGE is not assuming and shall not assume or have any responsibility whatsoever with respect to any present or future debt, liability or other obligation of Counterparty not included within the definition of Assumed Liabilities.

11. Conditions to Making Payments.

In addition to the conditions precedent set forth in Section 10.1.1 above, the obligation of PGE to make payments as set out in Section 10.1 above, is subject to the satisfaction on each date on which payment is due (each a "Payment Date") of each the following conditions precedent:

11.1 Payments on Business Days.

The Payment Date shall be a Business Day. If any Progress Payment becomes payable on a day that is not a Business Day, the Progress Payment shall be paid on the next succeeding Business Day. Counterparty shall bear the cost of any and all banking charges imposed by Counterparty's bank with respect to any payment made under this Agreement.

11.2 Representations and Warranties.

The representations and warranties made by Counterparty shall be true and correct in all material respects on such Payment Date both before and after giving effect to the making of such payment, which representations and warranties shall be deemed renewed and re-stated as of the date of such payment.

11.3 No Default.

(i) No circumstance, event or condition shall exist which either immediately or with the passage of time or the giving of notice, or both, would permit a third party to a contract or agreement relating to the Assets with Counterparty to withhold payment under any such contract or agreement; (ii) no breach, violation or default shall have occurred and be continuing under (A) this Agreement, (B) any permit; and (iii) to the extent not already set forth in Section 11.3(i), no circumstance, event or condition shall exist which either immediately or with the passage of time or the giving of notice, or both, would permit Counterparty's counterparty to terminate any contract or agreement relating to the Assets.

11.4 No Proceeding or Litigation.

No action, suit, proceeding or investigation by or before any Governmental Authority or any arbitrator shall be pending or to Counterparty's knowledge threatened against or affecting the Assets or Counterparty which would have a Material Adverse Change on Counterparty or its ability to consummate the transaction or perform its obligations contemplated by this Agreement.

11.5 Material Adverse Change.

On or before the Payment Date, no Material Adverse Change shall have occurred with respect to Counterparty or the Assets.

11.6 Notice of Request for Progress Payment.

PGE shall have received from Counterparty a notice of request for payment, together with all supporting documents reasonably requested by PGE.

11.7 Governmental Approvals.

All necessary governmental approvals required to be obtained by such time shall have been obtained and shall be in full force and effect as of the Payment Date.

12. FORCE MAJEURE; PGE-CAUSED DELAY

12.1 Performance Excused.

So long as the conditions set forth in this Section 12.1 are satisfied, neither Party shall be responsible or liable for or deemed in breach of this Agreement because of any failure or delay in complying with its obligations (other than payment obligations) under or pursuant to this Agreement to the extent that such failure has been caused, or contributed to, by one or more Force Majeure Events or its effects or by any combination thereof, and in such event:

12.1.1 the Party claiming a Force Majeure Event shall give the other Party notice describing the particulars of the cause and nature of the occurrence, with written notice given promptly after discovery and in no event more than five (5) Business Days after the affected Party becomes aware of such occurrence and as soon as reasonably practicable, but in any case within ten (10) Business Days after such initial notification, the Party claiming a Force Majeure Event shall give the other Party sufficient proof of the occurrence of such Force Majeure Event and written notice estimating the Force Majeure Event's expected duration and probable impact on the performance of such Party's obligations hereunder, and such affected Party shall continue to furnish timely regular reports with respect thereto during the continuation of the Force Majeure Event;

12.1.2 the performance of the Party claiming the Force Majeure Event of its obligations hereunder shall be suspended, provided the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the effects of the Force Majeure Event;

12.1.3 any liability of either Party which arose before the occurrence of the Force Majeure Event causing the suspension of performance shall not be excused as a result of the occurrence;

12.1.4 the affected Party shall continually exercise all commercially reasonable efforts to alleviate and mitigate the cause and effect of such Force Majeure Event, remedy its inability to perform, and limit damages to the other Party;

12.1.5 the affected Party shall use all commercially reasonable efforts to continue to perform its obligations hereunder and to correct or cure the event or condition excusing performance;

12.1.6 when the affected Party is able to resume performance of the affected obligations under this Agreement, that Party shall give the other Party written notice to that effect, and the affected Party shall promptly resume performance under this Agreement; and

12.1.7 a Party's failure to comply with the provisions of this Section 12.1 shall constitute a waiver of any claim of a Force Majeure Event.

12.2 Burden of Proof.

The burden of proof as to whether a Force Majeure Event has occurred and whether the Force Majeure Event excuses a Party from performance under Section 12.1 shall be upon the Party claiming such Force Majeure Event.

12.3 PGE-Caused Delay.

In the event Counterparty desires to claim a PGE-caused delay, Counterparty shall within five (5) Business Days after it becomes aware of the PGE-caused delay, give PGE written notice describing the details of the PGE-caused delay, the anticipated length of such delay and any other effect on Counterparty's performance of its obligations hereunder. Within ten (10) days after initial notification, Counterparty shall (i) provide to PGE demonstrable proof of the occurrence and duration of such PGE-caused delay and, if requested by PGE, such proof shall be provided, and in any event verified, by an independent third party reasonably acceptable to PGE and Counterparty at the sole cost and expense of PGE (in the event that the independent third party verifies Counterparty's assertions) or Counterparty (in all other cases). So long as the conditions set forth in this Section 12.3 are satisfied, Counterparty shall not be responsible or liable for or deemed in breach of this Agreement because of any failure or delay in completing the Work in accordance with the Work schedule or achieving any Milestone on or before the Milestone Date therefore, to the extent that such failure has been caused by one or more PGE-caused delays, provided that: (i) such suspension of performance and extension of time shall be of no greater scope and of no longer duration than is required by the effects of the PGE-caused delay; (ii) Counterparty provides timely notice of the PGE-caused delay; and (iii) Counterparty provides all assistance reasonably requested by PGE for the elimination or mitigation of the PGE-caused delay; provided, however, any out-of-pocket costs incurred by Counterparty in connection with rendering such assistance shall be reimbursed by PGE. In the event Counterparty desires to claim a PGE-caused delay, it must submit a request for Scope Change pursuant to Section 13 and Counterparty shall be entitled to suspension of performance or extension of time (including an extension of any of the Milestone Dates) together with demonstrated, justified and reasonable additional costs, including but not limited to, idle equipment costs, incurred by reason of such delay to the extent of the impact of the PGE-caused delay pursuant to a Scope Change Order in accordance with Section 13. Failure to comply with the terms of this Section 12.3 shall constitute a waiver of any claims for a PGE-caused delay. The Parties acknowledge that PGE may direct a suspension of the Work pursuant to Section 13.5 in order to minimize the cost to PGE of a PGE-caused delay.

13. SCOPE CHANGES

13.1 Scope Changes at PGE's Request.

PGE may, from time to time, without invalidating this Agreement, order or approve scope changes to all or a portion of the Work within the general scope of the Work, scope changes in the Work, and, pursuant to Section 13.6 or reductions in the Purchase Price (collectively, "Scope Changes") by notification in writing to Counterparty substantially in the form set forth as Exhibit I. Counterparty shall reasonably review and consider such requested Scope Change and shall make a written response thereto within ten (10) days after receiving such request. If Counterparty believes that giving effect to any Scope Change requested by PGE will increase or decrease its cost of performing the Work, shorten or lengthen the time needed for completion of the Work, require modification of its warranties in or require a modification of any other provisions of this Agreement, its response to the Scope Change request shall set forth such changes (including any amendments to this Agreement) that Counterparty deems necessary as a result of the requested Scope Change and its justification therefor. If Counterparty accepts the Scope Changes requested by PGE (together with any amendments to this Agreement specified therein) or if the Parties agree upon a modification of such requested Scope Changes, the Parties shall set forth the agreed upon Scope Change in the Work and agreed upon amendments to this Agreement, if any, in a written change order signed by all Parties (a "Scope Change Order"). Each Scope Change Order shall constitute a final settlement of all items covered therein, including any compensation for impact on, or delay or acceleration in, performing the Work. If the Parties do not agree upon all terms of the Scope Change Order, Counterparty shall proceed with such Work upon PGE's written direction, and the dispute shall be resolved in accordance with the terms hereof.

13.2 No Unapproved Scope Changes.

Counterparty shall not perform any Scope Changes, nor shall Counterparty undertake any change to the Work until PGE has approved in writing the proposed adjustments or has expressly authorized Counterparty in writing to perform the Scope Change prior to such approval. If PGE does not approve the proposed adjustments or if Counterparty and PGE are unable mutually to agree upon alternative adjustments, PGE may by written notice to Counterparty cancel the Scope Change. Upon receiving from PGE such written approval or such written authorization to perform, Counterparty shall diligently perform the Scope Change in accordance with and subject to all of the terms of this Agreement. In the absence of a written Scope Change Order, Counterparty shall make any such changes to the Work at Counterparty's sole risk and expense, and Counterparty shall not be entitled to any payment hereunder for undertaking such change to the Work. Counterparty shall not suspend, in whole or in part, performance of this Agreement during any good faith dispute over any Scope Change Order unless directed to do so by PGE, and if directed to proceed with a Scope Change or disputed item pending review and agreement upon adjustments, Counterparty shall (without waiving any rights with respect to such Scope Change or disputed item) do so. Any technical or

engineering dispute between PGE and Counterparty with respect to any Scope Change Order shall be resolved in accordance with Section 18.

13.3 Presumption Against Scope Changes.

It is the intent of PGE and Counterparty that the Scope of Work attached hereto as Exhibit C includes all items necessary for the proper execution and completion of the Work. Work not described in the Scope of Work attached hereto as Exhibit C shall not require a Scope Change Order if such work is consistent with and reasonably inferable from the Scope of Work, so that an engineering, procurement and construction third party of Counterparty's experience and expertise should have anticipated that the Work would have been required.

13.4 Counterparty Requested Scope Changes.

Counterparty shall obtain PGE's prior written approval of any Counterparty initiated changes for convenience.

13.5 Scope Changes Caused by a Force Majeure Event or PGE-Caused Delay.

13.5.1 PGE may at any time, by written notice to Counterparty, propose Scope Changes in the Work or the Milestones due to a Force Majeure Event or PGE-caused delay. If there is a material impact that will actually, demonstrably and adversely affect Counterparty's ability to complete one or more Milestones by the applicable Milestone Date as a result of such Force Majeure Event or PGE-caused delay, then the Counterparty shall be entitled to a Scope Change Order equitably adjusting the Purchase Price (but only as a result of a PGE-caused delay) and any affected Milestone Dates, but only to the extent that such PGE-caused delay increased the cost to perform the Work or such Force Majeure Event or PGE-caused delay adversely affect the completion of the applicable Milestone by the Milestone Date therefore; provided, further, that for the avoidance of doubt, Counterparty shall not be entitled to an adjustment to the Purchase Price with respect to a Force Majeure Event. The Parties agree to bargain reasonably and in good-faith for the execution of a mutually acceptable Scope Change Order to address the effects of such events or delays on the Purchase Price and Milestone Dates respectively.

13.5.2 Counterparty may at any time, by written notice to PGE, propose Scope Changes in the Work or the Milestones: (i) due to a Force Majeure Event claimed by Counterparty, provided that such Force Majeure Event has an impact that will actually, demonstrably and adversely affect Counterparty's ability to complete one or more Milestones by the applicable Milestone Dates; provided that Counterparty complies with all requirements of this Agreement relating to Scope Change Orders; and further provided, that no adjustment to the Purchase Price shall be permitted for a Force Majeure Event claimed by Counterparty; or (ii) due to a PGE-caused delay, provided that such PGE-caused delay has a demonstrable cost increase to Counterparty and/or schedule impact that will actually, demonstrably and adversely affect Counterparty's ability to complete one or more Milestones by the applicable Milestone Dates and further provided

that Counterparty complies with all requirements of this Agreement relating to Scope Change Orders. Unless the foregoing conditions are met, Counterparty may not request a Scope Change in the Work or Milestones due to a Force Majeure Event or PGE-caused delay. If the foregoing conditions are met, then Counterparty shall receive a Scope Change Order equitably adjusting the Purchase Price (where eligible) and any affected Milestone Dates, but only to the extent that such Force Majeure Events (with respect to schedule only and not with respect to a change in Purchase Price) or PGE-caused delay increase the cost to perform the Work or adversely affect the completion of the applicable Milestone by the Milestone Date therefore; provided, however, Counterparty shall not be entitled to an adjustment to the Purchase Price with respect to a PGE-caused delay unless and only to the extent that the PGE-caused delay continues for more than one (1) day. The Parties agree to bargain reasonably and in good-faith for the execution of a mutually acceptable Scope Change Order to address the effects of such events or delays on the Purchase Price and Work Schedule. Any extension permitted under this Section shall be of an equitable duration designed to reflect the delay actually caused by the relevant event despite Counterparty's efforts to mitigate the same.

13.6 Minor Changes.

PGE shall have the direct authority to issue clarifications and order minor changes in the Work, effected by written order, which do not involve any impact to the Counterparty's cost or the Work Schedule, provided that such clarifications and changes are consistent with the intent of this Agreement. Such clarifications and changes shall be binding on PGE and Counterparty. Counterparty shall carry out such written orders promptly and Counterparty shall receive no additional compensation therefore.

13.7 Changes to Purchase Price.

A Scope Change Order initiated by either Party may have the effect of either increasing or decreasing the Purchase Price. Any Counterparty response to a Scope Change Order under Section 13.1 and any Counterparty request for Scope Changes under Section 13.4 or Section 13.5, shall be accompanied by a proposed all inclusive final lump sum cost (separating materials and labor) to PGE; provided, however, PGE may elect, in its sole discretion, to pay Counterparty its direct time and materials plus ten percent (10%) in respect of such Scope Change. Absent such an election, in the event that the Parties are unable to reach an agreement on an all inclusive final lump sum cost to PGE or a not-to-exceed cost estimate as a result of a requested Scope Change, then Counterparty agrees to perform the requested Scope Change at a price equal to PGE's proposed lump sum amount and to resolve (in accordance with the dispute resolution procedures set forth in Section 18) the issue of any excess of the Counterparty's proposed lump sum cost over that of PGE. In addition, in the event that PGE and Counterparty are unable to reach agreement on a Scope Change Order for a Scope Change requested by either PGE or Counterparty, at the direction of PGE (and only at the direction of PGE), PGE's proposed Scope Changes shall become effective as a Scope Change Order and Counterparty shall continue to perform the Work in accordance with such Scope Change Order and the proposed Scope Changes shall be performed by Counterparty pending resolution of the dispute pursuant to Section 18. For any Scope Change Order finalized

on a cost-plus basis, Counterparty shall maintain all records, invoices and other data verifying its costs for a period of two (2) years from the date of the Scope Change Order.

14. Financial Information.

If requested by a Party, the other Party shall deliver (i) within one hundred and twenty (120) days following the end of each fiscal year, a copy of such Party's annual report containing audited consolidated financial statements for such fiscal year and (ii) within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year, a copy of such Party's quarterly report containing un-audited, consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles, consistently applied; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the other Party diligently pursues the preparation, certification and delivery of the statements. Delivery under this Section 14 shall be deemed to have occurred if a Party's financial statements are available on line: for PGE at portlandgeneral.com; and for Counterparty at _____ .com.

15. Collateral and Security.

The Parties agree that, in order to secure Counterparty's obligations hereunder, Counterparty may be required to post Performance Assurance concurrently with the execution and delivery of this Agreement.

16. Insurance

For purposes of this Agreement, Counterparty shall secure and continuously maintain the following insurance coverages with insurance carriers that maintain a *Best's* rating of at least "A" or such carriers that are otherwise acceptable to PGE, and permitted to do business in the United States, provided that Counterparty shall name PGE as an additional insured on its liability insurance policy to the extent of any liability arising out of Counterparty's negligence, acts or omission:

16.1 Worker's Compensation.

Counterparty shall provide and maintain worker's compensation insurance as required by Applicable Laws and employer's liability insurance with a limit of liability of One Million Dollars (\$1,000,000) for each accident and in the aggregate.

16.2 Commercial General Liability.

Counterparty shall provide and maintain commercial general liability insurance with a One Million Dollars (\$1,000,000) combined single policy limit for bodily injury and/or property damage for each occurrence and Four Million Dollars (\$4,000,000) in the aggregate, including broad form contractual liability insurance and broad form property

damage, explosion, collapse and underground conditions, personal injury, and products and completed operations insurance.

16.3 Automobile Liability.

16.4 Counterparty shall provide and maintain business auto liability insurance covering owned, non-owned and hired automobiles in the amount of One Million Dollars (\$1,000,000) combined single policy limit for bodily injury and property damage for each accident.

16.5 Excess Liability.

Counterparty shall provide and maintain excess liability insurance covering employer's liability, commercial general liability, and business auto liability, in the amount of Six Million Dollars (\$6,000,000) combined single policy limit per occurrence and in the aggregate for bodily injury and property damage.

16.6 Waiver of Subrogation.

Counterparty shall require that its insurers release and waive all rights of subrogation against PGE with respect to the insurance carried by Counterparty.

16.7 Certificates and Cancellations.

Counterparty shall deliver to PGE certificates of insurance evidencing the placement of all coverage required to have been obtained by it under this Section 16. All policies of insurance to be provided and maintained hereunder shall provide, by endorsement, that PGE shall be provided thirty (30) days' prior written notice of any material policy changes or cancellations, and that no such cancellation or change shall be effective without such notice. Irrespective of the requirements as to insurance to be carried as provided for herein, the insolvency, bankruptcy or failure of any insurance company carrying insurance of Counterparty, or the failure of any insurance company to pay claims accruing, shall not affect, negate or waive any of the provisions of this Agreement, including, without exception, the indemnity obligations of Counterparty. The failure of Counterparty to comply with the foregoing insurance requirements shall in no way waive its obligations or liabilities under this Agreement or the rights of PGE hereunder against Counterparty.

16.8 Right to Insure.

Should Counterparty fail to provide or maintain any of the insurance coverage required under this Section 16 or fail to provide proof of insurance coverage to PGE under this Section 16, PGE shall have the right to provide or maintain such coverage at Counterparty's expense, either by direct charge or set-off.

17. GOVERNING LAW

THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF OREGON, WITHOUT REGARD TO ITS PRINCIPLES OF CONFLICTS OF LAW. FOR ANY DISPUTE HELD NOT ARBITRABLE HEREUNDER EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION RELATING TO SUCH DISPUTE.

18. ARBITRATION

18.1 Arbitration.

Any controversy, claim or dispute between the Parties hereto arising out of or related to this Agreement, or the alleged breach, termination, or invalidity hereof, will be submitted for arbitration before (i) a single arbitrator if such controversy, claim or dispute is for an amount less than Three Million Dollars (\$3,000,000) or (ii) a panel of three arbitrators if such controversy, claim or dispute is for an amount greater than or equal to Three Million Dollars (\$3,000,000), each in accordance with the provisions contained herein and in accordance with the Commercial Arbitration Rules of the American Arbitration Association (“AAA”) in effect at the time of the arbitration (“Rules”); provided, however, that notwithstanding any provisions of such Rules, the Parties shall have the right to take depositions (up to three (3) per Party) and obtain limited discovery regarding the subject matter of the arbitration. In the case of a single arbitrator arbitration, if the Parties cannot agree upon an arbitrator within twenty (20) days following the filing of the Arbitration Notice, then the arbitrator shall be selected in accordance with the Rules. In the case of an arbitration with a panel of three arbitrators, each Party shall select one arbitrator, and the two designated arbitrators shall jointly select the third arbitrator within twenty (20) days following the filing of the Arbitration Notice, if the Party selected arbitrators cannot agree upon an arbitrator within twenty (20) days following the filing of the Arbitration Notice, then the arbitrator shall be selected in accordance with the Rules. Any Party desiring arbitration shall serve on the other Party and the regional case management center of AAA administering cases for Portland, Oregon in accordance with the aforesaid Rules its notice of intent to arbitrate (“Arbitration Notice”). The Arbitration Notice shall be made within a reasonable time after the dispute has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such dispute would be barred by the applicable statute of limitations or by an express provision of this Agreement. All arbitration shall take place in Portland, Oregon unless otherwise agreed to by the Parties. Each Party shall be required to exchange documents to be used in the arbitration proceeding not less than fifteen (15) days prior to the arbitration. The Parties shall use all commercially reasonable efforts to conclude the arbitration as soon as practicable. The arbitrator(s) shall determine all questions of fact and law relating to any dispute hereunder, including but not limited to whether or not any dispute is subject to the arbitration provisions contained herein. The arbitration proceedings provided hereunder are hereby declared to be self executing, and it shall not be necessary to petition a court to

compel arbitration. Judgment upon the award rendered by the arbitrator(s) may be entered in any court of competent jurisdiction. Nothing in this Section 18 shall prevent either Party from seeking, either prior to or during the arbitration process, a temporary restraining order, preliminary injunction, specific performance or other provisional relief from a court for the purpose of protecting the rights or property of that Party.

18.2 Attorney's Fees.

In any arbitration or litigation to enforce the provisions of this Agreement, and any permitted appeals thereof, the prevailing Party in such action shall be entitled to the recovery of its reasonable legal fees and expenses (including reasonable attorneys' fees and legal costs), fees of the arbitrator(s), costs and expenses such as expert witness fees, as fixed by the arbitrator(s) or court without necessity of noticed motion.

18.3 Language.

All arbitration proceedings shall be conducted in the English language.

18.4 Survival.

The provisions set forth in this Section 18 shall survive the termination or expiration of this Agreement.

18.5 To the fullest extent permitted by law, any arbitration proceeding and the arbitrator's award shall be maintained in confidence by the Parties.

19. RECORDS AND AUDIT

19.1 Records.

Each Party shall keep proper books of records and account, in which full and correct entries shall be made of all dealings in relation to this Agreement in accordance with generally accepted accounting principles, consistently applied.

19.2 Audit Rights.

Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the earlier of the lapse of twenty-four (24) months from the rendition thereof and thereafter any objection shall be deemed waived.

20. Indemnities.

20.1 General Indemnity.

Counterparty shall defend, indemnify and hold harmless PGE and each of its subsidiaries and affiliates, and the directors, officers, agents, employees, successors and assigns of each of them (each, a "PGE Indemnified Party") from and against any and all losses, costs, damages, injuries, liabilities, claims, demands, fines, penalties, interest, related costs and expenses and causes of action, including reasonable attorney's fees, incurred by any PGE Indemnified Party for (a) injury or death of persons or any third party property loss or damage (other than claims by customers of PGE for loss of power) to the extent resulting from or caused by any negligent act or omission, fraud or willful misconduct of any Counterparty party in the performance of Work under this Agreement, (b) fines and penalties imposed by any Governmental Authority on account of any violation of any Applicable Law to be complied with by Counterparty hereunder and any violation of Applicable Law by any Counterparty subcontractor in connection with the Work; (c) injury or death of employees of Counterparty to the extent resulting from the negligence, fraud or willful misconduct of any Counterparty party; or (d) resulting from claims, charges, encumbrances, demands, or liens by suppliers or workmen of Counterparty or Counterparty's subcontractors in connection with this Agreement.

20.2 PGE's Indemnity.

PGE shall defend, indemnify and hold harmless Counterparty, its affiliates and the directors, officers, agents, employees, successors and assigns of each of them (each, a "Counterparty Indemnified Party") from and against any and all losses, costs, damages, injuries, liabilities, claims, demands, fines, penalties, interest, related costs and expenses and causes of action, including reasonable attorney's fees, incurred by any Counterparty Indemnified Party for (a) injury or death of persons or any third party property loss or damage to the extent resulting from or caused by any negligent act or omission, fraud or willful misconduct of any PGE party, (b) fines and penalties imposed by any Governmental Authority on account of any violation of any Applicable Law to be complied with by PGE hereunder and any violation of Applicable Law by any PGE party

to be complied with hereunder; or (c) injury or death of any PGE party to the extent resulting from the negligence, fraud or willful misconduct of any PGE party.

20.3 Intellectual Property Right Indemnification.

Counterparty shall indemnify, defend and hold PGE harmless from and against third party claims arising from, or related to, an infringement of patents or other intellectual property rights which may occur in connection with (i) Counterparty's performance of its obligations under this Agreement, (ii) PGE's use of the Assets, or (iii) PGE's receipt and/or use of the Intellectual Property Rights licensed hereunder, unless PGE infringes on such intellectual property through its negligent or intentional actions or breach of this Agreement. Counterparty shall have sole authority for the control of the defense of any and all such claims; provided, however, that without relieving Counterparty of its obligations hereunder or impairing Counterparty's right to control the defense or settlement thereof, PGE may elect to participate through separate counsel in the defense of any such claim. In the event that the Assets, or any part thereof is held to constitute an infringement or its use by PGE is enjoined, Counterparty will, at its option and its own expense, either: (a) procure for PGE the right to continue using said Assets; (b) replace it with substantially equivalent non-infringing Assets; or (c) modify it so it becomes non-infringing. Any replacement or modification hereunder shall meet the requirements of this Agreement. PGE shall notify Counterparty in writing promptly following PGE's receipt of notice of any claims of infringement of patents or other proprietary rights occurring in connection with Counterparty's performance of its obligations under this Agreement, PGE's use of the Assets, or PGE's use of the Intellectual Property Rights, and shall promptly provide to Counterparty all relevant information in PGE's possession in respect of such claim. In turn, Counterparty shall timely notify PGE in writing of any claims which Counterparty may receive alleging infringement of patents or other proprietary rights which may affect Counterparty's performance of obligations under this Agreement, PGE's use of the Assets, or PGE's use of the Intellectual Property Rights.

20.4 Indemnification Procedure.

When required to indemnify a PGE Indemnified Party or Counterparty Indemnified Party (each, an "Indemnified Party"), Counterparty or PGE, as the case may be (the "Indemnifying Party"), shall assume on behalf of such Indemnified Party, and conduct with due diligence and in good faith, the defense of any claim against the Indemnified Party, whether or not the Indemnifying Party shall be joined therein, and the Indemnified Party shall cooperate fully with the Indemnifying Party in such defense. The Indemnifying Party shall have charge and direction of the defense and settlement of such claim; provided, however, that without relieving the Indemnifying Party of its obligations hereunder or impairing the Indemnifying Party's right to control the defense or settlement thereof, the Indemnified Party may elect to participate through separate counsel in the defense of any such claim. The fees and expenses of separate counsel retained by the Indemnified Party shall be at the expense of such Indemnified Party unless (a) such Indemnified Party shall have reasonably concluded that there exists a material conflict of interest between the Indemnifying Party and such Indemnified Party in the conduct of the

defense of such claim (in which case the Indemnifying Party shall not have the right to control the defense or settlement of such claim, on behalf of such Indemnified Party), or (b) the Indemnifying Party shall not have employed competent counsel to assume the defense of such claim within a reasonable time after notice of the commencement thereof or shall not be pursuing the defense of such claim with due diligence or in good faith (and in each such case the fees and expenses of counsel shall be at the expense of the Indemnifying Party).

21. GENERAL PROVISIONS

21.1 Entirety.

This Agreement and the Exhibits hereto constitute the entire agreement between the Parties and supersede all prior discussions and agreements between the Parties with respect to the subject matter hereof. There are no prior or contemporaneous agreements or representations affecting the same subject matter other than those herein expressed. Except for any matters which, in accordance with the express provisions of this Agreement, may be resolved by verbal agreement between the Parties, no amendment, modification or change herein shall be enforceable unless reduced to writing executed by both Parties.

21.2 Non-Waiver.

No waiver by any Party hereto of any one or more defaults by the other Party in the performance of any of the provisions of this Agreement shall be construed as a waiver of any other default or defaults whether of a like kind or different nature. No failure or delay by either Party hereto in exercising any right, power, privilege, or remedy hereunder shall operate as a waiver thereof.

21.3 Severability.

Any provision of this Agreement declared or rendered invalid, unlawful, or unenforceable by any applicable Governmental Authority or deemed unlawful because of a statutory change (individually or collectively, such events referred to as “Regulatory Event”) will not otherwise affect the remaining lawful obligations that arise under this Agreement provided that if a Regulatory Event occurs, the Parties shall use their best efforts to reform this Agreement in order to give effect to the original intention of the Parties.

21.4 Survival.

All arbitration, indemnity and audit rights shall survive the termination of this Agreement. All obligations provided in this Agreement shall remain in effect, after the expiration or termination for any reason of this Agreement, for the purpose of complying herewith.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

PORTLAND GENERAL ELECTIC COMPANY

By: _____

Name: _____

Title: _____

Date: _____

COUNTERPARTY

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A

ASSETS

EXHIBIT B
PURCHASE PRICE

EXHIBIT C
SCOPE OF WORK

EXHIBIT D
TERMINATION PAYMENT

EXHIBIT E

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this “Assignment”) is made as of _____, 2011, by and between [COUNTERPARTY], a [State] corporation (“Assignor”), and PORTLAND GENERAL ELECTRIC COMPANY, an Oregon corporation (“Assignee”).

RECITALS

WHEREAS, pursuant to that certain Asset Purchase Agreement (the “Purchase Agreement”), dated as of _____, 2011, by and between Assignor and Assignee, the Assignor has agreed to assign or caused to be assigned as of the Closing Date (as defined in the Purchase Agreement), to Assignee, among other things, all of Assignor’s rights and interest under the _____ described in Exhibit A attached hereto (the “Assumed Obligations”), and Assignee has agreed to assume, as of the Closing Date, all of Assignor’s obligations with respect to the Assumed Obligations, subject to the terms and conditions set forth in this Assignment and the Purchase Agreement.

NOW, THEREFORE, in consideration of the foregoing, and of the mutual covenants and conditions herein contained, the parties hereto (together, the “Parties,” and each sometimes a “Party”) hereby act and agree as follows:

AGREEMENT

1. **Assignment.** Assignor hereby assigns, sets over and transfers, as of the date hereof, to Assignee, and Assignee hereby takes and accepts from Assignor all of Assignor’s rights, title and interest under the Assumed Obligations.
2. **Assumption of Obligations and Liabilities by Assignee.** Assignee hereby assumes, as of the date hereof, all of the obligations of Assignor to pay, and agrees to pay, all amounts becoming due under the Assumed Obligations accruing after the date hereof and assumes the obligations of Assignor to perform, and agrees to perform, all of the covenants, provisions and conditions to be performed by Assignor under the Assumed Obligations accruing after the date hereof.
3. **Purchase Agreement.** This Assignment is executed in connection with the Purchase Agreement.
4. **Further Assurances.** Assignor shall promptly execute and deliver to Assignee any additional instrument or other document that Assignee reasonably requests to evidence or better effect the assignment contained herein.
5. **Counterparts.** This Assignment may be executed in counterparts and by each Party on a separate counterpart, each of which when so executed and delivered shall

be deemed an original and all of which taken together shall constitute but one and the same instrument.

6. **Governing Law.** This Assignment shall be deemed to be an agreement made under the laws of the State of Oregon and for all purposes shall be governed by and construed in accordance with such laws.

7. **Binding Effect.** This Assignment shall be binding upon and inure to the benefit of each of the Parties and its successors and permitted assigns.

8. **Enforcement Costs.** If any litigation between Assignor and Assignee arises out of the obligations of the parties under this Assignment or concerning the meaning or interpretation of any provision contained herein, the losing party shall pay the prevailing party's costs and expenses of such litigation, including without limitation reasonable attorneys' fees, at trial and on appeal.

9. **Warranty of Signers.** Each individual executing and delivering this Assignment on behalf of a Party hereby represents and warrants to the other Party that such individual has been duly authorized and empowered to make such execution and delivery.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have caused this Assignment to be executed and delivered by their respective representatives, thereunto duly authorized, as of the date first above written.

ASSIGNOR:

**[COUNTERPARTY], a [State]
corporation**

By: _____
Name: _____
Title: _____

ASSIGNEE:

**PORTLAND GENERAL ELECTRIC
COMPANY, an Oregon corporation**

By: _____
Name: _____
Title: _____

EXHIBIT A

ASSUMED OBLIGATIONS

EXHIBIT F

CONSENT TO ASSIGNMENT AND NOVATION AGREEMENT

This CONSENT TO ASSIGNMENT AND NOVATION AGREEMENT (the "Agreement") is entered into effective as of the ____ day of _____, 2011 ("Effective Date"), by and between [Assignor], a [State] corporation ("Assignor"), Portland General Electric Company, an Oregon corporation ("Assignee"), and [Counterparty], a [State] corporation ("Counterparty").

WHEREAS Assignor and Assignee have entered into that certain Asset Purchase Agreement (the "Purchase Agreement") dated _____, 2011, whereby Assignor has agreed to sell certain Assets (as defined in the Purchase Agreement) to Assignor and Assignee has agreed to purchase such Assets from Assignor.

WHEREAS Assignor and Counterparty are parties to one or more agreements each as described in Schedule "A" and attached hereto (such agreements being hereinafter called the "Assigned Agreements");

WHEREAS Assignor has agreed to assign and convey to Assignee its entire right, title, estate and interest in and to the Assigned Agreements pursuant to the Purchase Agreement;

WHEREAS Counterparty is willing to consent to the assignment and conveyance of the Assigned Agreements by Assignor to Assignee, and to recognize and accept Assignee as a party to the Assigned Agreements in the place and stead of Assignor, subject to the contingencies set forth in Section 6 below;

NOW THEREFORE, for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereto mutually covenant and agree as follows:

1. **Consent of Counterparty.** Effective as of and from the Effective Date, Counterparty hereby consents to the assignment and transfer of the Assigned Agreements from Assignor to Assignee and accepts Assignee as the party to perform the Assigned Agreements under the terms and conditions of the Assigned Agreements.
2. **Responsibilities.**
 - (a) Counterparty understands and hereby agrees that Assignor shall be solely entitled to the benefits of and be solely responsible for any obligations under the Assigned Agreements arising on or pertaining to matters relating to time periods on or before the Effective Date, including the settlement, payment or performance of any liabilities or obligations arising or

accruing prior to the Effective Date, but which have not been claimed, settled, paid or performed as of the Effective Date.

- (b) Counterparty hereby understands and agrees that after the Effective Date, Assignee shall be solely entitled to the benefits of and be solely responsible for all obligations under the Assigned Agreements arising after the Effective Date.
- 3. **No Amendments.** The parties agree that there are no amendments, modifications or waivers of the terms of the Assigned Agreements that are not otherwise set forth in the attached Schedule A.
- 4. **Address for Notices.**

The address of Assignor for notices under the Assigned Agreements shall be:

The address of Assignee for purpose of receiving any notice under this Section 4 shall be:

Portland General Electric Company

Attn: _____

121 S.W. Salmon Street

Portland, Oregon 97204

Tel: 503-464-8931

Fax: 503-464-2605

The address of Counterparty for purpose of receiving any notice under this Section 4 shall be:

- 5. **Credit Support.** To the extent that completion of this Agreement requires credit support (whether in the form of cash, letters of credit, a guaranty or otherwise) to be provided, returned or increased by, or on behalf of, Counterparty or Assignee under the Assigned Agreements, such credit support requirements shall be

governed by the applicable credit support provisions of the Assigned Agreements. On the Effective Date, Assignee shall replace on the same terms and conditions as any credit support currently held by Counterparty from Assignor or its guarantor, as applicable. To the extent that Counterparty has provided credit support to Assignor, Counterparty hereby agrees that such credit support be and is hereby assigned to Assignee.

6. **Contingency.** The parties acknowledge that Assignee is purchasing a group of contracts and transactions, including the Assigned Agreements, from the Assignor. In the event that the Purchase Agreement is terminated for any reason on or before the Effective Date, this Agreement will terminate, and in the event of such termination, (i) this Agreement shall be null and void and of no force and effect, (ii) Assignor's interests in the Assigned Agreements shall not be assigned to Assignee, (iii) any credit support posted by Assignee or Counterparty for the benefit of the other party with respect to the Assigned Agreements shall automatically terminate and be of no force and effect (and any guaranty shall be returned to the entity providing such), (iv) Assignee and the Counterparty shall have no further obligations to each other with respect to this Agreement or the Assigned Agreements, and (v) the Assigned Agreements, and the rights, interest, liabilities and obligations of Assignor and Counterparty thereunder, shall remain in full force and effect without modification or alteration by reason of this Agreement.

7. **Representations.**

(a) Each party hereto represents to the other parties that (i) it has the power and authority to execute and deliver this Agreement and perform its obligations hereunder, (ii) this Agreement constitutes the legal, valid and binding obligation of such party enforceable against it in accordance with its terms, (iii) this Agreement does not and will not violate or conflict with its charter or by-laws (or comparable constitutive documents), any statute, law, rule, regulation or ordinance, or any judgment, order, consent order, stipulation, agreement, writ, injunction or decree of, any court or governmental authority applicable to it or any agreement to which it is a party or by which it or any of its property is bound; and (iv) the person signing this Agreement on behalf of such party is an officer, director and/or partner of such party and is authorized and duly empowered to do so.

(b) Counterparty represents to the other parties that (i) the Assigned Agreements are legal, valid and binding obligations of Counterparty enforceable against it in accordance with their terms, (ii) it has neither given nor received any written notice of termination, cancellation, breach or default with respect to any of the Assigned Agreements, (iii) there is no suspension of performance in effect by Counterparty, and to the knowledge of Counterparty, by Assignor with respect to any of the Assigned Agreements and (iv) neither Counterparty nor, to the knowledge

of Counterparty, Assignor is in material breach of or default under any of the Assigned Agreements.

- (c) Each of Assignor and Counterparty represents and warrants to each other and to Assignee that it has made no prior transfer of the Assigned Agreements or any interest or obligation in or under the Assigned Agreements or in respect of any transaction under the Assigned Agreements.
- 8. **Enurement.** This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.
- 9. **Counterpart Execution.** This Agreement may be executed in separate counterparts and delivered by facsimile, each of which when so executed and delivered shall constitute the one and the same original document.
- 10. **Assignment to Affiliates.** Assignee may assign this Agreement and the Assigned Agreements consistent with the provisions of the Assigned Agreements to an affiliate of Assignee; provided, however, that unless specifically released by Counterparty, no such assignment shall operate to release Assignee from its obligations in respect of this Agreement and the Assigned Agreements. As a condition to the effectiveness of any transfer or assignment of this Agreement, the Assigned Agreements or any rights or obligations under this Agreement or the Assigned Agreements, the applicable transferee or assignee shall agree in writing to be bound by the terms and conditions of this Agreement and the Assigned Agreements.
- 11. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Oregon. Performance of this Agreement is subject to compliance with all applicable laws, rules and regulations and that, if any obligation hereunder shall be declared unlawful or otherwise incapable of performance, the parties will reform the Agreement to the extent permissible to recreate the economic positions of the parties, had the relevant obligation not been invalidated.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by their respective representatives, thereunto duly authorized, as of the Effective Date.

ASSIGNOR:

[ASSIGNOR], a [State] corporation

By: _____
Name: _____
Title: _____

ASSIGNEE:

PORTLAND GENERAL ELECTRIC
COMPANY, an Oregon corporation

By: _____
Name: _____
Title: _____

COUNTERPARTY:

[COUNTERPARTY], a [State] corporation

By: _____
Name: _____
Title: _____

SCHEDULE A
ASSIGNED AGREEMENTS

EXHIBIT G

BILL OF SALE

KNOW ALL PERSONS BY THESE PRESENTS, that [Counterparty], a [State] corporation (“Seller”), for good and valuable consideration, the current receipt, reasonable equivalence, and sufficiency of which is hereby acknowledged by the parties hereto, does hereby sell, assign, quitclaim, transfer, release, and set over onto PORTLAND GENERAL ELECTRIC COMPANY, an Oregon corporation (“Purchaser”), any and all right, title, and interest of Seller in and to that certain property described on Exhibit “A” attached hereto and incorporated by this reference herein (the “Property”), upon the terms and conditions set forth herein (including without limitation Exhibit “A”).

Risk of loss and the obligation to insure and maintain the Property shall pass to and are assumed by Purchaser effective on the date of this Bill of Sale.

IN NO EVENT SHALL SELLER OR PURCHASER BE LIABLE TO ONE ANOTHER OR TO ANY THIRD PARTY FOR ANY LOST OR PROSPECTIVE PROFITS OR ANY OTHER SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, INCIDENTAL OR INDIRECT LOSSES OR DAMAGES (IN TORT, CONTRACT OR OTHERWISE) UNDER OR IN RESPECT OF THIS BILL OF SALE OR FOR ANY FAILURE OF PERFORMANCE RELATED HERETO HOWSOEVER CAUSED, WHETHER OR NOT ARISING FROM SUCH PARTY’S SOLE, JOINT OR CONCURRENT NEGLIGENCE.

IN WITNESS WHEREOF, Seller has executed this Bill of Sale as of the ____ day of _____, 2011.

[COUNTERPARTY]

By: _____

Name: _____

Title: _____

EXHIBIT "A"

DESCRIPTION OF PROPERTY

EXHIBIT H
FORM OF CONSENT

EXHIBIT I
FORM OF SCOPE CHANGE NOTIFICATION

APPENDIX F

**PHYSICAL CAPACITY
WHOLESALE POWER PURCHASE and SALE AGREEMENT**

Between

Portland General Electric Company

And

[Counterparty]

This WHOLESale POWER PURCHASE AND SALE AGREEMENT for Physical Capacity (“Agreement”) is entered into effective as of the _____ day of _____, 2011 (“Effective Date”), by and between *Counterparty*, a [STATE] corporation (“Counterparty”) with an office address at _____, and Portland General Electric Company, an Oregon corporation (“PGE”) with an office address at 121 SW Salmon Street, Portland, Oregon 97204. Counterparty and PGE are also sometimes referred to herein individually as a “Party” and collectively as the “Parties.”

ARTICLE 1 DEFINITIONS AND INTERPRETATION

1.1 Definitions.

As used in this Agreement, the following terms, when initially capitalized, shall have the meanings specified in this Section 1.1.

1.1.1 “Affiliate” means, with respect to a Party, any Person, any other Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person. For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power or has the ability to direct the affairs of the Person. For the purposes of this Agreement, except for Section 15.1, PGE will be deemed to have no Affiliates.

1.1.2 “Agreement” means this Wholesale Power Purchase and Sale Agreement for physical Capacity entered into between Counterparty and PGE and all incorporated appendices, exhibits, and attachments hereto, as may be amended by the Parties from time to time.

1.1.3 “Ancillary Services” means all ancillary products associated, in accordance with Prudent Electric Industry Practice, with the generation of electrical Energy, including, without limitation, spinning reserves, non-spinning reserves, reactive power and voltage control.

1.1.4 “Balancing Authority Area” means an electric power system or combination of electric power systems under the control of an operator who acts to (i) match, at all times, the power output of the electric generator within the electric power system(s) and the capacity and energy purchased from entities outside the electric power system(s), with the load within the electric power system(s), (ii) maintain scheduled interchange with other control areas, within the limits of Prudent Electric Utility Practice, (iii) maintain the frequency of the electric power system(s) within reasonable limits in accordance with Prudent Electric Utility Practice and (iv) provide sufficient generating capacity to maintain operating reserves in accordance with Prudent Electric Utility Practice.

1.1.5 “Bankrupt” means with respect to any entity, such entity (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar

law, or has any such petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

1.1.6 “Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party’s principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party by whom the notice or payment or delivery is to be received.

1.1.7 “Capacity” means firm electric generating capability, expressed in megawatts (MW).

1.1.8 “Capacity Charge” means USD _____/kW Month.

1.1.9 “Claiming Party” has the meaning set forth in Section 4.2.

1.1.10 “Collateral Threshold” means, with respect to PGE, \$_____ in USD (or its equivalent in another currency), and with respect to Counterparty \$_____ in USD (or its equivalent in another currency), provided, however, that a Party’s Collateral Threshold shall be zero (\$0) upon the occurrence and during the continuance of an Event of Default, or Material Adverse Change with respect to such Party.

1.1.11 “Contract Price” means the Capacity Charge, Energy Charge, and any of the charges which have been agreed to by the Parties in this Agreement.

1.1.12 “Contract Quantity” means that MWh quantity of the Product that Counterparty agrees to make available or sell and deliver, or cause to be delivered, to PGE, and that PGE agrees to purchase and receive, or cause to be received, from Counterparty as specified in this Agreement.

1.1.13 “Contract Term” means the period of time referenced in Section 2.1.

1.1.14 “Costs” means, with respect to a Party, brokerage fees, commissions and other similar third party Transaction costs and expenses reasonably incurred by such Party in entering into new arrangements which replace this Agreement and all reasonable attorneys’ fees and expenses incurred by a Party in connection with enforcing its rights under this Agreement. Costs shall not include any expenses incurred by such Party in either entering or terminating any arrangement pursuant to which it has hedged its obligations.

1.1.15 “Counterparty” means _____, the Party to this Agreement that is obligated to sell and deliver and, or cause to be delivered, the Product to PGE, as specified in this Agreement.

1.1.16 “Credit Rating” means (i) with respect to any entity other than a financial institution, the (a) current ratings issued or maintained by S&P or Moody’s with respect to such entity’s long-term senior, unsecured, unsubordinated debt obligations (not supported by third party credit enhancements) or (b) corporate credit rating or long-term issuer rating issued or maintained with respect to such entity by S&P or Moody’s, or (ii) if such entity is a financial institution, the ratings issued or maintained by S&P or Moody’s with respect to such entity’s long-term, unsecured, unsubordinated deposits.

1.1.17 “Cross Default Amount” means with respect to Counterparty or its Guarantor, if applicable, \$_____ in USD (or its equivalent in another currency), and with respect to PGE \$_____ USD (or its equivalent in another currency).

1.1.18 “Daily” means any 24-Hour period commencing at 0000 Hours.

1.1.19 “Defaulting Party” has the meaning set forth in Section 5.1.

1.1.20 “Delivery” means Energy is delivered by Counterparty to PGE.

1.1.21 “Delivery Period” has the meaning set forth in Section 2.2.

1.1.22 “Delivery Point” means the point at which the Product will be delivered and received, as specified in the Scheduling notice.

1.1.23 “Determination Period” means each Month during the Contract Term for the Agreement; provided that if the remaining term of the Agreement is less than one Month, the Determination Period shall be the remaining term of the Agreement.

1.1.24 “Early Termination Date” has the meaning set forth in Section 5.2.1.

1.1.25 “Effective Date” is the day on which the last signatory signs this Agreement.

1.1.26 “Energy” means electric energy, expressed in megawatt hours (“MWh”), delivered by Counterparty to PGE pursuant to this Agreement.

1.1.27 “Energy Charge” means USD _____.

1.1.28 “Equitable Defenses” means any bankruptcy, insolvency, reorganization and other laws affecting creditors’ rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending.

1.1.29 “Event of Default” has the meaning set forth in Section 5.1.

1.1.30 “FERC” means the Federal Energy Regulatory Commission or any successor government agency.

1.1.31 “Firm” used in the context of “Firm” Capacity or Energy means the only excuse for the interruption of delivery of the Product is if the interruption is excused by Force Majeure.

1.1.32 “Floating Price” means the price specified in this Agreement that is based upon a Price Source.

1.1.33 “Force Majeure” is defined in Section 4.1.

1.1.34 “Gains” means, with respect to a Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of its obligations with respect to this Agreement determined in a commercially reasonable manner.

1.1.35 “Governmental Authority” means any national, state, provincial or local government, any political subdivision thereof or any other governmental, regulatory, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law; provided, however, that “Governmental Authority” shall not in any event include either Party.

1.1.36 “Governmental Charges” means any charges or costs that are assessed or levied by any entity, including local, state or federal regulatory or taxing authorities or any Transmission Provider that would affect the sale and purchase of a Product contemplated by this Agreement, either directly or indirectly.

1.1.37 “Guarantor” means, with respect to Counterparty, _____.

1.1.38 “Guaranty” means an instrument or agreement pursuant to which Guarantor guarantees the performance of each and all of the obligations of Counterparty, which instrument or agreement is reasonably acceptable in form and substance to PGE.

1.1.39 “Guaranty Default” means with respect to a Guaranty or the Guarantor thereunder, the occurrence of any of the following events: (i) any representation or warranty made or deemed to be made or repeated by such Guarantor in connection with such Guaranty shall be false or misleading in any material respect when made or when deemed made or repeated; (ii) such Guarantor fails to pay, when due, any amount required pursuant to such Guaranty; (iii) the failure of such Guarantor to comply with or timely perform any other material covenant or obligation set forth in such Guaranty if such failure is not capable of remedy or shall not be remedied in accordance with the terms and conditions of such Guaranty; (iv) a Merger Event occurs with respect to such Guarantor; (v) such Guaranty shall expire or terminate, or shall fail or cease to be in full force and effect and enforceable in accordance with its terms against such Guarantor, prior to the satisfaction of all obligations of the guaranteed Party under this Agreement, in any such case without replacement; (vi) such Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of, its Guaranty, or (vii) such Guarantor becomes Bankrupt; provided, however, that no Guaranty Default shall occur or be continuing in any event with respect to a Guaranty

after the time such Guaranty is required to be canceled or returned to a Party in accordance with the terms of this Agreement.

1.1.40 “Indemnitee” has the meaning set forth in Section 13.2.

1.1.41 “Indemnitor” has the meaning set forth in Section 13.2.

1.1.42 “Indemnity Claims” means all third party claims or actions, threatened or filed, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, attorneys’ fees and court costs, whether resulting from a settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.

1.1.43 “Interest Rate” means, for any date, the lesser of (i) the maximum amount allowed by applicable law or (ii) the Federal Funds Rate for the holding period plus 200 basis points (2.00). “Federal Funds Rate” means the effective Federal Funds Rate as published daily by the Federal Reserve Bank H.15 Statistical Release website for each day of the holding period. Such interest shall be calculated on the basis of the actual number of days elapsed over a year of 360 days.

1.1.44 “kW Month” means the number of kW per Month.

1.1.45 “Law” means any law, rule, regulation, order, writ, judgment, rulings or orders by or before any court or any governmental authority.

1.1.46 “Letter(s) of Credit” means one or more irrevocable, transferable, standby letters of credit issued by a major U.S. commercial bank or a U.S. branch office of a major foreign commercial bank with such bank having shareholders’ equity of at least \$10 billion USD and a Credit Rating of at least A1 from Moody’s or A+ from S&P, in a form and substance reasonably acceptable to the Party in whose favor the letter of credit is issued. The costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.

1.1.47 “Letter of Credit Default” means with respect to a Letter of Credit the occurrence of any of the following events: (i) the issuer of such Letter of Credit shall fail to be a major U.S. commercial bank or a U.S. branch office of a major foreign commercial bank with such bank having shareholders’ equity of at least \$10 billion USD and a Credit Rating of at least A1 from Moody’s or A+ from S&P; (ii) the issuer of the Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit; (iii) the issuer of such Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit; (iv) such Letter of Credit shall expire or terminate, or shall fail or cease to be in full force and effect at any time during the Contract Term, in any such case without replacement; (v) the issuer of such Letter of Credit shall become Bankrupt; or (vi) a Merger Event occurs with respect to the issuer of such Letter of Credit; provided, however, that no Letter of Credit Default shall occur or be continuing in any event with respect to a Letter

of Credit after the time such Letter of Credit is required to be canceled or returned in accordance with the terms of this Agreement.

1.1.48 “Losses” means, with respect to a Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of its obligations with respect to this Agreement determined in a commercially reasonable manner.

1.1.49 “Market Disruption Event” means, with respect to any Price Source, any of the following events (the existence of which shall be determined in good faith by PGE): (a) the failure of the Price Source to report, publish or announce information necessary for determining the Floating Price; (b) the failure of trading to commence or the permanent discontinuation or material suspension of trading in the relevant options contract or commodity in the market acting as the Floating Price; (c) the temporary or permanent discontinuance or unavailability of the Price Source; (d) the temporary or permanent closing of any exchange specified for determining a Floating Price; or (e) a material change in the formula for or the method of determining the Floating Price.

1.1.50 “Material Adverse Change” means (i) with respect to PGE, PGE shall have a Credit Rating below BBB- by S&P and below Baa3 by Moody’s or both ratings are withdrawn or terminated on a voluntary basis by the rating agencies, (ii) with respect to Counterparty, Counterparty or Counterparty’s Guarantor, if applicable, shall have a Credit Rating below BBB- by S&P and below Baa3 by Moody’s or both ratings are withdrawn or terminated on a voluntary basis by the rating agencies, if rated by both services. If Counterparty or Counterparty’s Guarantor is rated by only one service, a Material Adverse Change shall occur if such rating falls below the pertinent level specified above or if such rating is withdrawn or terminated on a voluntary basis by the rating agency.

1.1.51 “Merger Event” means, with respect to a Party or other entity, that such Party or other entity consolidates or amalgamates with, or merges into or with, or transfers all or substantially all of its assets to another entity, and (i) the resulting, surviving or transferee entity fails, at the time of such consolidation, amalgamation, merger or transfer, to assume each and all of the obligations of such Party or other entity hereunder or under any Guaranty or Letter of Credit or other performance assurance, either by operation of law or pursuant to an agreement reasonably satisfactory to the other Party, or (ii) the benefits of any Guaranty, Letter of Credit, or other performance assurance or credit support provided pursuant to this Agreement fail, at any time following such consolidation, amalgamation, merger or transfer, to extend to the performance by such Party or such resulting, surviving or transferee entity of its obligations hereunder, or (iii) the Credit Rating (from any of S&P or Moody’s) of the resulting, surviving or transferee entity is not equal to or higher than that of such Party or other entity immediately prior to such consolidation, amalgamation, merger, or transfer.

1.1.52 “Month” means a calendar month commencing at HE 0100 PPT on the first day of such month through HE 2400 PPT on the last day of such month.

1.1.53 “Moody’s” means Moody’s Investor Services, Inc. or its successor.

1.1.54 “MW” means megawatt.

1.1.55 “MWh” means megawatt hour.

1.1.56 “Non-Defaulting Party” has the meaning set forth in Section 5.2.1.

1.1.57 “Off-Peak Hours” mean all hours ending 01:00:00 through 06:00:00 and hours ending 23:00:00 through 24:00:00, PPT, Monday through Saturday and hours ending 01:00:00 through 24:00:00, PPT, on Sundays and NERC designated holidays.

1.1.58 “On-Peak Hours” shall mean all hours ending 07:00:00 through 22:00:00 PPT, Monday through Saturday, excluding NERC designated holidays.

1.1.59 “Performance Assurance” means collateral in the form of cash, Letter(s) of Credit, or other security acceptable to the Non-Defaulting Party.

1.1.60 “Person” means an individual, partnership, corporation, limited liability company, joint venture, association, trust, unincorporated organization, Governmental Authority, or other form of entity.

1.1.61 “PPT” means Pacific Prevailing Time, that is, prevailing Standard Time or Daylight Savings Time in the Pacific Time Zone.

1.1.62 “Present Value” means a present value calculation derived by using a [commercially reasonable discount rate] for each remaining Month of the Contract Term.

1.1.63 “Price Source” means a nationally-recognized market price index, recognized and independent brokers or dealers active in the [*Hub Name*] Next Day physical power market) containing (or reporting) the specified price (or prices from which the specified price is calculated) set forth in this Agreement.

1.1.64 “Product” means electric Capacity, Energy or other product(s) related thereto as specified in this Agreement by the Parties.

1.1.65 “Prudent Electric Industry Practice” means those practices, methods, standards and acts engaged in or approved by a significant portion of the electric power generation industry in the Western Interconnection that at the relevant time period, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts reflect due regard for operation and maintenance standards recommended by the facility’s equipment suppliers and manufacturers, operational limits, and all applicable laws and regulations. Prudent Electric Industry Practice is not intended to be limited to

the optimum practice, method, standard or act to the exclusion of all others, but rather to those practices, methods and acts generally acceptable or approved by a significant portion of the electric power generation industry in the relevant region, during the relevant period, as described in the immediately preceding sentence.

1.1.66 “Replacement Price” is described in Section 6.1.2.

1.1.67 “Rounding Amount” means \$250,000 in USD (or its equivalent in another currency).

1.1.68 “S&P” means the Standard & Poor’s, a division of McGraw-Hill Companies, Inc., or any successor thereto.

1.1.69 “Sales Price” is described in Section 6.2.2.

1.1.70 “Schedule,” “Scheduled” or “Scheduling” means the act of each Party or its designated representatives, including its Transmission Providers, if applicable, notifying, requesting and confirming to each other, on a preschedule, hourly schedule or real-time schedule basis, the quantity of the Product to be delivered hourly on any given day or days during the Delivery Term to and at and from the Energy Delivery Point according to customary WECC scheduling practices.

1.1.71 “Preschedule Day” means any day on which PGE, or its Scheduling Agent, must submit a final hourly preschedule for the next day or days, in accordance with the WECC Preschedule Calendar and consistent with posted Business Practices for all Transmission Providers in the scheduled physical path

1.1.72 “Settlement Amount” means, with respect to an Agreement and the Non-Defaulting Party, the Losses or Gains, and Costs, expressed in USD, which such party incurs as a result of the termination and liquidation this Agreement pursuant to Section 5.2.2.

1.1.73 “Taxes” means all taxes, rates, levies, adders, assessments, surcharges, duties and other fees and charges of any nature, including but not limited to ad valorem, consumption, excise, franchise, gross receipts (including any [State Name] business and occupation tax and [State Name] public utility tax and any successor tax thereto), import, export, license, property, sales, stamp, storage, transfer, turnover, use, or value-added taxes, and any and all items of withholding, deficiency, penalty, addition to tax, interest, or assessment related thereto.

1.1.74 “Termination Payment” has the meaning set forth in Section 5.4.

1.1.75 “Trading Day” means a day in respect of which the relevant Price Source reported, published or announced the Floating Price.

1.1.76 “Transmission Provider(s)” means any entity (including any FERC-authorized regional transmission organization) transmitting Energy on behalf of

Counterparty to and at, the Delivery Point; or on behalf of PGE, at and from the Delivery Point.

1.1.77 “Transmission Services” means any and all services (including but not limited to Ancillary Services and Balancing Authority Area services) required for the transmission and delivery of Energy to the Delivery Point or at and from the Delivery Point.

1.1.78 “Transmission System(s)” means the transmission system(s) of the Transmission Provider(s) to be used by Counterparty for the purpose of transmitting Energy to the Delivery Point or by PGE for the purpose of transmitting Energy at and from the Delivery Point.

1.1.79 “USD” means United States Dollars.

1.1.80 “WECC” means the Western Electricity Coordinating Council or any successor thereto.

1.2 Interpretations.

Unless the context otherwise requires:

1.2.1 Words singular and plural in number shall be deemed to include the other and pronouns having masculine or feminine gender shall be deemed to include the other.

1.2.2 Subject to Article Fifteen, any reference in this Agreement to any Person includes its successors and permitted assigns and, in the case of any Governmental Authority, any Person succeeding to its functions and capacities.

1.2.3 Any reference in this Agreement to any Section, Exhibit or Appendix means and refers to the Section contained in, or Exhibit or Appendix attached to, this Agreement.

1.2.4 Other grammatical forms of defined words or phrases have corresponding meanings.

1.2.5 A reference to writing includes typewriting, printing, lithography, electronic, photography and any other mode of representing or reproducing words, figures or symbols in a lasting and visible form.

1.2.6 Unless otherwise expressly provided in this Agreement, a reference to a specific time for the performance of an obligation is a reference to that time in the place where that obligation is to be performed.

1.2.7 Unless otherwise expressly provided in this Agreement, a reference to a document or agreement, including this Agreement, includes a reference to

that document or agreement as modified, amended, supplemented or restated from time to time.

1.2.8 References in this Agreement to “or” shall be deemed to be disjunctive but not necessarily exclusive (i.e., unless the context dictates otherwise, “or” shall be interpreted to mean “and/or” rather than “either/or”).

1.2.9 If any payment, act, matter or thing hereunder would occur on a day that is not a Business Day, then such payment, act, matter or thing shall, unless otherwise expressly provided for herein, occur on the next Business Day.

1.3 Technical Meanings.

Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used herein in accordance with such recognized meanings.

ARTICLE 2 CONTRACT TERM, DELIVERY PERIOD, AND PRICE

2.1 Contract Term.

The delivery obligations under this Agreement (the “Contract Term”) shall commence on _____ and continue through _____ [Date], unless otherwise terminated in accordance with its terms; provided, however, that such termination shall not affect or excuse the performance of either Party under any provision of this Agreement that by its terms survives any such termination and; provided further, that this Agreement and any other documents executed and delivered hereunder shall remain in effect until both Parties have fulfilled all of their obligations with respect to this Agreement under Article 6 hereof.

2.2 Delivery Period.

The Product shall be made available by Counterparty during _____ [months] of each year, during the Contract Term set forth in Section 2.1. (the “Delivery Period”).

2.3 Price.

PGE shall pay to Counterparty a Capacity Charge, and, if applicable, the Energy Charge.

2.4 Delivery Point

Commencing on the first day of the Contract Term and continuing throughout the Contract Term, Counterparty shall sell and deliver and PGE shall buy and receive at the Delivery Point Firm Capacity and associated Firm Energy as scheduled by PGE in accordance with Article 3.

ARTICLE 3 OBLIGATIONS AND DELIVERIES

3.1 Counterparty's and PGE's Obligations.

3.1.1 Counterparty shall sell and PGE shall purchase Firm Capacity and have the right to Schedule associated Firm Energy in a minimum amount of ___ MWs per Hour up to a maximum amount of ___ MWs per Hour as the Contract Quantity elected by PGE on a Daily basis throughout the Contract Term. PGE may Schedule Product during the Scheduling Period(s) for each day of the Delivery Period throughout the Contract Term. PGE may Schedule Product during On-Peak and Off-Peak hours of the Delivery Period. PGE may Schedule Firm Energy in minimum blocks of four (4) contiguous hours.

3.1.2 Counterparty's obligation to deliver the amount of Scheduled Firm Energy associated with Firm Capacity purchased by PGE shall be absolute and the only excuse for failure of Counterparty to deliver the Firm Energy as Scheduled shall be a Force Majeure or PGE's failure to receive.

3.2 Delivery Point

The Delivery Point for Product delivered by Counterparty to PGE will be at PGE's system or any other alternate Delivery Point mutually agreed to by the Parties.

3.3 Transmission and Scheduling.

3.3.1 Responsibility for Transmission and Scheduling. Counterparty shall arrange for, pay all costs, and be responsible for transmission service, including but not limited to Balancing Authority Area services, spinning and supplemental reserves, imbalance and inadvertent energy flows, and transmission losses and loss charges relating to the transmission of the Product, to the Delivery Point and shall Schedule or arrange for Scheduling services with its Transmission Provider(s), in accordance with the practice of the Transmission Provider(s), to deliver the Product to the Delivery Point. PGE shall arrange for, pay all costs, and be responsible for transmission service, including but not limited to Balancing Authority Area services, spinning and supplemental reserves, imbalance and inadvertent energy flows, and transmission losses and loss charges relating to the transmission of the Product, at and from the Delivery Point and shall Schedule or arrange for Scheduling services with its Transmission Provider(s) to receive the Firm Energy at the Delivery Point. Each Party shall designate authorized representatives to effect the Scheduling of Firm Energy.

3.3.2 Exercise of Option to Schedule Firm Energy. Under the terms of this Agreement, PGE may exercise its option to Schedule Firm Energy by notifying Counterparty on the customary Scheduling day by 6:30 PPT of its intent to schedule Firm Energy.

3.3.3 Preschedules. The Parties shall exchange preschedules for all deliveries of Energy hereunder, including identification of receiving and generating

Balancing Authority Areas, by 10:00:00 PPT on the last Business Day prior to the Scheduled date of delivery. The Parties' respective representatives shall maintain hourly real-time Schedule coordination; provided, however, that in the absence of such coordination, the hourly schedule established by the exchange of preschedules shall be considered final. All schedules hereunder shall be accounted for on the basis of scheduled hourly quantities of Firm Energy at the Delivery Point, except that when deliveries are interrupted for any reason, schedules shall be reduced thereafter to reflect such interruptions. In case the scheduled deliveries and receipt of Firm Energy are not maintained for an entire hour, deliveries shall be pro-rated on a mutually agreed-upon basis. Counterparty and PGE shall maintain records of hourly Energy schedules for accounting and operating purposes. All Energy shall be pre-scheduled according to customary WECC scheduling practices. The final E-Tag shall be the controlling evidence of the Parties' Schedule.

ARTICLE 4 FORCE MAJEURE

4.1 Definition.

Force Majeure means an event or circumstance which prevents one Party from performing its obligations to deliver or receive Product under this Agreement, which event or circumstance was not anticipated as of the date the Product was Scheduled, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure shall not be based on (i) the loss of PGE's markets; (ii) PGE's inability economically to use or resell the Product purchased hereunder; (iii) the loss or failure of Counterparty's supply; or (iv) Counterparty's ability to sell the Product at a price greater than the Contract Price. Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Product to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in the first sentence hereof has occurred.

4.2 Occurrence and Notice.

To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations hereunder and such Party (the "Claiming Party") gives notice and details of the Force Majeure to the other Party as soon as practicable, then, unless the terms of this Agreement specify otherwise, the Claiming Party shall be excused from the performance of its obligations affected by such Force Majeure. The Claiming Party shall remedy the Force Majeure with all reasonable dispatch. The non-Claiming Party shall not be required to perform or resume performance of its obligations

to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure.

4.3 Obligations.

No Party shall be relieved by operation of this Article 4 of any liability to pay or to make payments then due or which the Party is obligated to make with respect to performance which occurred prior to the Force Majeure.

ARTICLE 5 EVENTS OF DEFAULT; REMEDIES

5.1 Events of Default

An “Event of Default” shall mean, with respect to a Party (a “Defaulting Party”), the occurrence of any of the following:

5.1.1 the occurrence of a Material Adverse Change with respect to the Defaulting Party; provided, such Material Adverse Change shall not be considered an Event of Default if the Defaulting Party establishes and maintains for so long as the Material Adverse Change is continuing, Performance Assurance to the Non-Defaulting Party in an amount determined by the Non-Defaulting Party in a commercially reasonable manner;

5.1.2 the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within two (2) Business Days after written notice;

5.1.3 any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated;

5.1.4 the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default, and except for such Party’s obligations to deliver or receive the Product, the exclusive remedy for which is provided in Article 6);

5.1.5 such Party becomes Bankrupt;

5.1.6 the failure of such Party to establish, maintain, extend or increase Performance Assurance when required pursuant to this Agreement;

5.1.7 the occurrence of a Merger Event with respect to such Party or its Guarantor;

5.1.8 the occurrence and continuation of (i) a default, event of default or other similar condition or event in respect of such Party or any other party specified for such Party under one or more agreements or instruments, individually or collectively, relating to indebtedness for borrowed money in an aggregate amount of not less than the

applicable Cross Default Amount (as specified in Section 1.1.17) which results in such indebtedness becoming immediately due and payable or (ii) a default by such Party or any other entity specified for such Party in making on the due date therefor one or more payments, individually or collectively, in an aggregate amount of not less than the applicable Cross Default Amount;

5.1.9 the occurrence of a Letter of Credit Default;

5.1.10 with respect to such Party's Guarantor, if any:

5.1.10.1 the failure of the Guarantor's Guaranty to be in full force and effect for purposes of this Agreement (other than in accordance with its terms) prior to the satisfaction of all obligations of such Party under this Agreement to which such Guaranty shall relate without the written consent of the other Party; or

5.1.10.2 the occurrence of a Guaranty Default.

5.2 Declaration of an Early Termination Date and Calculation of Settlement Amounts.

5.2.1 Early Termination Date. If an Event of Default with respect to a Defaulting Party shall have occurred at any time during the Contract Term and be continuing, the other Party (the "Non-Defaulting Party") shall have the right to (i) designate a day, no earlier than the day such notice is effective and no later than 20 days after such notice is effective, as an early termination date ("Early Termination Date") on which to liquidate, terminate, and accelerate all amounts owing between the Parties, (ii) withhold any payments due to the Defaulting Party under this Agreement and (iii) suspend performance. If an Early Termination Date has been designated, the Non-Defaulting Party shall calculate, in a commercially reasonable manner, its Gains or Losses and Costs resulting from the termination of this Agreement as of the Early Termination Date and the Termination Payment (hereinafter defined) payable hereunder shall be calculated in accordance with Section 5.2.2 below.

5.2.2 Calculation of Settlement Amounts. The Gains or Losses resulting from the termination of this Agreement shall be determined by calculating the amount that would be incurred or realized to replace or to provide the economic equivalent of the remaining payments or deliveries under this Agreement. The Non-Defaulting Party (or its agent) may determine its Gains and Losses by reference to information either available to it internally or supplied by one or more third parties including, without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets. Third parties supplying such information may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. However, it is expressly agreed that (i) a Party shall not be required to enter into a replacement agreement in order to determine the Termination Payment (as hereafter defined) and (ii) a Party's Gains, Losses or Costs will in no event include any penalties, ratcheted demand or similar charges. At the time for payment of any amount

due under this Section 5.2, one Party shall pay to the other Party all additional amounts payable by it pursuant to this Agreement, but all such amounts shall be netted and aggregated with any Termination Payment payable hereunder.

5.3 Net Out of Settlement Amounts.

The Non-Defaulting Party shall aggregate all Settlement Amounts into a single amount by: netting out (i) all Settlement Amounts that are due to the Defaulting Party, plus any cash or other form of security then available to the Non-Defaulting Party under this Agreement, plus any or all other amounts due to the Defaulting Party under this Agreement against (ii) all Settlement Amounts that are due to the Non-Defaulting Party, plus any cash or other form of security then available to the Defaulting Party under this Agreement, plus any or all other amounts due to the Non-Defaulting Party under this Agreement, so that all such amounts shall be netted out to a single liquidated amount (the “Termination Payment”) payable by one Party to the other. The Termination Payment shall be due to or due from the Non-Defaulting Party as appropriate.

5.4 Notice of Termination Payment.

As soon as practicable after a liquidation, notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to or due from the Non-Defaulting Party. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. The Termination Payment shall be made by the Defaulting Party within two (2) Business Days after such notice is effective. Notwithstanding any provision to the contrary contained in this Agreement, the Non-Defaulting Party shall not be required to pay to the Defaulting Party any amount under Article 5 until the earlier of the date (i) the Non-Defaulting Party receives confirmation satisfactory to it in its reasonable discretion (which may include an opinion of its counsel) that all other obligations of any kind whatsoever of the Defaulting Party to make any payments to the Non-Defaulting Party under this Agreement or otherwise which are due and payable as of the Early Termination Date have been fully and finally performed, or (ii) that is 180 days after the Early Termination Date.

5.5 Disputes with Respect to Termination Payment.

If the Defaulting Party disputes the Non-Defaulting Party’s calculation of the Termination Payment in whole or in part, the Defaulting Party shall, within two (2) Business Days of receipt of the Non-Defaulting Party’s calculation of the Termination Payment provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute; provided, however, that if the Termination Payment is due from the Defaulting Party, the Defaulting Party shall first transfer Performance Assurance to the Non-Defaulting Party in an amount equal to the disputed amount of the Termination Payment, and pay the undisputed amount of the Termination Payment as provided above.

5.6 Closeout Setoffs.

After determination of the Termination Payment in accordance with Section 5.4, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to (i) set off against such Termination Payment any amounts due and owing by the Defaulting Party to the Non-Defaulting Party under any other agreements, instruments or undertakings between the Defaulting Party and the Non-Defaulting Party and/or (ii) to the extent the purchases or sales are not yet liquidated in accordance with Section 5.3, withhold payment of the Termination Payment to the Defaulting Party. The remedy provided for in this Section 5.6 shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

5.7 Suspension of Performance.

Notwithstanding any other provision of this Agreement, if an Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, shall have the right (i) to suspend performance under this Agreement; provided, however, in no event shall any such suspension continue for longer than thirty (30) days unless an early Termination Date shall have been declared and notice thereof pursuant to Section 5.4 given, and (ii) to the extent an Event of Default shall have occurred and be continuing to exercise any remedy available at law or in equity.

ARTICLE 6 REMEDIES FOR FAILURE TO DELIVER/RECEIVE

6.1 Remedy for Counterparty's Failure to Deliver.

6.1.1 Liquidated Damages Due to PGE. If Counterparty fails to Schedule and/or deliver all or part of the Product pursuant to this Agreement, and such failure is not excused under the terms of this Agreement or by PGE's failure to receive, then Counterparty shall pay PGE within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

6.1.2 Calculation of Replacement Price. The Replacement Price in regard to any Product Scheduled but not delivered to PGE by Counterparty shall be the price at which PGE either:

6.1.2.1 purchased for delivery at the Delivery Point a replacement for any such Product in a commercially reasonable manner, adding any:

6.1.2.1.1 costs reasonably incurred by PGE in replacing such Product; and

6.1.2.1.2 additional transmission charges, if any, reasonably incurred by PGE in delivering such Product to the Delivery Point; or

6.1.2.2 absent a purchase, then the market price at the Delivery Point for such Product not delivered as determined by PGE in a commercially reasonable manner.

6.1.3 However, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall PGE be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Counterparty's liability.

6.2 PGE's Failure to Receive.

6.2.1 Liquidated Damages Due to Counterparty. If PGE fails to receive all or part of the Energy Scheduled under this Agreement and such failure is not excused under the terms of this Agreement or by Counterparty's failure to perform, then PGE shall pay Counterparty, on the date payment would otherwise be due in respect of the month in which the failure occurred or within five (5) Business Days of invoice receipt, which ever is earlier, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

6.2.2 Calculation of Sales Price. The Sales Price in regard to any Product Scheduled but not received by PGE shall be the price at which Counterparty:

6.2.2.1 resells for delivery any such Product in a commercially reasonable manner, deducting from such proceeds any:

6.2.2.1.1 costs reasonably incurred by Counterparty in reselling such Product; and

6.2.2.1.2 additional transmission charges, if any, reasonably incurred by Counterparty in delivering such Product to the third party purchasers at or near the Delivery Point;

6.2.2.1.3 and adding to such proceeds an appropriate portion of the Capacity Charge paid by PGE; or

6.2.2.2 absent a sale, the market price at the Delivery Point for such Energy not received as determined by Counterparty in a commercially reasonable manner.

6.2.3 However, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Counterparty be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize PGE's liability.

6.3 Duty to Mitigate.

Subject to Sections 6.1.3 and 6.2.3, each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance of this Agreement.

6.4 Acknowledgement of the Parties.

The Parties stipulate that the payment obligations set forth in this Article 6 are reasonable in light of the anticipated harm and the difficulty of estimation or calculation of actual damages and waive the right to contest such payments as unreasonable or a penalty. If either Party fails to pay undisputed amounts under this Agreement when due, the other Party shall have the right to: (i) suspend performance until such amounts plus interest at the Interest Rate have been paid, and/or (ii) exercise any remedy available at Law or in equity to enforce payment of such amount plus interest at the Interest Rate. With respect to the amount of such damages only, the remedy set forth in this Article Six shall be the sole and exclusive remedy of the Parties for the failure of Counterparty to sell and deliver, and PGE to purchase and receive the quantity of Product and all other damages and remedies are hereby waived. Disagreements with respect to the calculation of damages pursuant to this Article 6 shall be submitted to arbitration in accordance with the arbitration procedures set forth in Article 17.

6.5 Survival.

The provisions of this Article 6 shall survive the expiration or termination for any reason of this Agreement.

**ARTICLE 7
PAYMENT AND NETTING**

7.1 Billing Period.

Unless otherwise specifically agreed upon by the Parties, the calendar month shall be the standard period for all payments under this Agreement (other than for Counterparty or PGE failure under Sections 6.1 and 6.2 respectively and for termination pursuant to Article 5). On or before the tenth (10th) day of each Month, each Party shall render to the other Party an invoice for the payment obligations, if any, incurred hereunder during the preceding Month.

7.2 Timeliness of Payment.

Unless otherwise agreed by the Parties, all invoices under this Agreement shall be due and payable in accordance with each Party's invoice instructions on or before the later of the twentieth (20th) day of each month, or tenth (10th) day after receipt of the invoice or, if such day is not a Business Day, then on the next Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any amounts not paid by the

due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

7.3 Disputes and Adjustments of Invoices.

A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twenty-four (24) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 7.3 within twenty-four (24) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the Month during which performance of this Agreement occurred, the right to payment for such performance is deemed waived.

7.4 Netting of Payments.

The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date under this Agreement through netting, in which case all amounts owed by one Party to the other Party during the monthly billing period under this Agreement, including any related damages calculated pursuant to Article 6 (unless one of the Parties elects to accelerate payment of such amounts as permitted by Article 6), interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

7.5 Payment Obligation Absent Netting.

If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, including, but not limited to, any related damage amounts calculated pursuant to Article 6, interest, and payments or credits, that Party shall pay such sum in full when due.

**ARTICLE 8
LIMITATIONS**

THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

**ARTICLE 9
CREDIT AND COLLATERAL REQUIREMENTS**

The applicable credit and collateral requirements shall be as follows.

9.1 Financial Information.

If requested by a Party, the other Party shall deliver (i) within 120 days following the end of each fiscal year, a copy of such Party's annual report containing audited consolidated financial statements for such fiscal year and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of such Party's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles, consistently applied; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long

as the other Party diligently pursues the preparation, certification and delivery of the statements. The financial statements of a Party shall be deemed delivered under this Section 9.1 if such statements are available at such Party website on the World Wide Web by the dates specified in the first sentence of this Section 9.1. The website of the Parties are: For PGE, www.portlandgeneral.com; and for Counterparty, _____.com

9.2 Collateral and Security.

The Parties agree that, in order to secure the obligations of Counterparty to PGE hereunder, subject to Section 9.3 below, Counterparty shall at PGE's request:

9.2.1 cause its Guarantor to execute and deliver to PGE a Guaranty agreement in a form and amount reasonably acceptable to PGE. Such Guaranty shall be delivered prior to the execution and delivery of this Agreement; or

9.2.2 establish and maintain an escrow account for the benefit of PGE in a form and amount reasonably acceptable to PGE. Evidence of such escrow account shall be delivered contemporaneously with the execution and delivery of this Agreement. The costs of such escrow account shall be borne by Counterparty; or

9.2.3 provide a cash deposit in an amount reasonably acceptable to PGE. Such cash deposit shall be delivered to PGE contemporaneously with the execution and delivery of this Agreement; or

9.2.4 provide a Letter of Credit in a form and amount reasonably acceptable to PGE. Such Letter of Credit shall be delivered contemporaneously with the execution and delivery of this Agreement.

9.3 Provision of Performance Assurance.

If at any time and from time to time during the term of this Agreement (and notwithstanding whether an Event of Default has occurred), the Termination Payment that would be owed to PGE exceeds Counterparty's Collateral Threshold, then PGE, on any Business Day, may request that Counterparty provide Performance Assurance in an amount equal to the lesser of (i) the remaining period of the Contract Term or (ii) for a period of twenty-four (24) months commencing from the date PGE provides notice to Counterparty of such required Performance Assurance, (rounding upwards for any fractional amount to the next Rounding Amount), less any Performance Assurance already posted with PGE. Such Performance Assurance shall be delivered to PGE within two (2) Business Days of the date of such request. On any Business Day (but no more frequently than weekly with respect to Letters of Credit and daily with respect to cash), Counterparty, at its sole cost, may request that such Performance Assurance be reduced correspondingly to the amount of such excess Termination Payment (rounding downwards for any fractional amount to the next Rounding Amount). In the event that Counterparty fails to provide Performance Assurance pursuant to the terms of this Article 9 within two (2) Business Days, then an Event of Default under Article 5 shall be deemed to have occurred and PGE will be entitled to the remedies set forth in Article 5 of this Agreement.

For purposes of this Section 9.3, the calculation of the Termination Payment shall be calculated pursuant to Section 5.3 by PGE as if this Agreement had been liquidated, and in addition thereto, shall include all amounts owed but not yet paid by Counterparty to PGE.

9.4 Grant of Security Interest/Remedies.

To secure its obligations under this Agreement and to the extent Counterparty delivers Performance Assurance hereunder, Counterparty hereby grants to PGE (the “Secured Party”) a present and continuing security interest in, and lien on (and right of setoff against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, PGE, and Counterparty agrees to take such action as PGE reasonably requires in order to perfect the Secured Party’s first-priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.

Upon or at any time after the occurrence and during the continuation of an Event of Default or an Early Termination Date affecting Counterparty, PGE may do any one or more of the following: (i) exercise any of the rights and remedies of a Secured Party with respect to all Performance Assurance, including any such rights and remedies under law then in effect; (ii) exercise its rights of setoff against any and all property of Counterparty in the possession of PGE or its agent; (iii) draw on any outstanding Letter of Credit issued for its benefit; and (iv) liquidate all Performance Assurance then held by or for the benefit of PGE free from any claim or right of any nature whatsoever of Counterparty, including any equity or right of purchase or redemption by Counterparty. PGE shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Counterparty’s obligations under this Agreement (Counterparty remaining liable for any amounts owing to PGE after such application), subject to PGE’s obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

9.5 Holding Performance Assurance.

PGE will be entitled to hold Performance Assurance in the form of cash provided that the following conditions are satisfied: (i) PGE is not a Defaulting Party and has a Credit Rating that is BBB- or higher by S&P or Baa3 or higher by Moody’s and (ii) Performance Assurance is held only in a jurisdiction within the United States.

9.6 Delivery of Performance Assurance.

Upon the occurrence and during the continuance of a Material Adverse Change or an Event of Default with respect to PGE, PGE shall deliver (or cause to be delivered) not later than two (2) Business Days after request by Counterparty, all Performance Assurance in the form of cash its possession or held on its behalf by a financial institution, to a segregated, safekeeping or custody account (“Collateral Account”) within a financial institution that is a major U.S. commercial bank or a U.S. branch office of a

major foreign commercial bank, with such bank having shareholder's equity of at least \$10 billion USD and a Credit Rating of at least A1 from Moody's or A+ from S&P approved by Counterparty (which approval shall not be unreasonably withheld). The title of the Collateral Account shall indicate that the property contained therein is being held as Performance Assurance for PGE. The financial institution shall serve as custodian with respect to the Performance Assurance in the Collateral Account and shall hold such Performance Assurance for the security interest of PGE and, subject to the security interest, for the ownership of Counterparty.

9.7 Performance Assurance Event of Default.

Failure by PGE to comply with any of the obligations under Section 9.6 will constitute an Event of Default with respect to PGE if the failure continues for two (2) Business Days after notice of the failure is given to PGE.

9.8 Interest Rate on Cash Collateral.

Performance Assurance in the form of cash held by PGE shall bear interest at the Interest Rate on Cash Collateral and shall be paid to the Pledgor on the third Business Day of each calendar month. "Interest Rate on Cash Collateral" means the lesser of (i) the maximum amount allowed by applicable law and (ii) the Federal Funds Rate for the holding period. The "Federal Funds Rate" means the effective Federal Funds Rate as published daily by the Federal Reserves Bank H.15 Statistical Release website for each day of the holding period. Such interest shall be calculated on the basis of the actual number of days elapsed over a year of 360 days.

**ARTICLE 10
GOVERNMENTAL CHARGES**

10.1 Cooperation.

Each Party shall use reasonable efforts to implement the provisions of and to administer this Agreement in accordance with the intent of the Parties to minimize all taxes, so long as neither Party is materially adversely affected by such efforts.

10.2 Non-Sale Related Governmental Charges and Taxes.

Counterparty shall pay or cause to be paid all charges or taxes imposed by any government authority ("Governmental Charges") on or with respect to the Product arising prior to the Delivery Point. PGE shall pay or cause to be paid all Governmental Charges on or with respect to the Product at and from the Delivery Point (other than those related to the sale of the Product and are, therefore, the responsibility of Counterparty). In the event Counterparty is required by law or regulation to remit or pay Governmental Charges which are PGE's responsibility hereunder, PGE shall promptly reimburse Counterparty for such Governmental Charges. If PGE is required by law or regulation to remit or pay Governmental Charges which are Counterparty's responsibility hereunder, PGE may deduct the amount of any such Governmental Charges from the sums due to Counterparty under Article 7 of this Agreement. However, nothing herein shall obligate

or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under the law.

10.3 Sale-related Governmental Charges and Taxes.

In addition to all other payments required under this Agreement, Counterparty shall be solely responsible for all existing and any new sales, use, excise, ad valorem, and any other similar taxes imposed or levied by any federal, state or local governmental agency on the Product sold and delivered hereunder (including any taxes imposed or levied with respect to the transmission of Energy) to the Delivery Point.

10.4 Indemnification.

Each Party shall indemnify, release, defend and hold harmless the other Party from and against any and all liability for taxes imposed or assessed by any taxing authority with respect to the Energy sold, delivered and received hereunder that are the responsibility of such Party pursuant to this Article 10.

**ARTICLE 11
MARKET DISRUPTION**

11.1 Occurrence.

If a Market Disruption Event has occurred and is continuing during the Determination Period, the Floating Price for the affected Trading Day shall be determined pursuant to the Price Source specified in this Agreement for the first Trading Day thereafter on which no Market Disruption Event exists; provided, however, if the Floating Price is not so determined within three (3) Business Days after the first Trading Day on which the Market Disruption Event occurred or existed, then the Parties shall negotiate in good faith to agree on a Floating Price (or a method for determining a Floating Price), and if the Parties have not so agreed on or before the twelfth Business Day following the First Trading Day on which the Market Disruption event occurred or existed, then the Floating Price shall be determined in good faith by PGE, by taking the average of two or more dealer quotes from an equal number of dealers selected by each Party.

11.2 Remedy.

For purposes of determining the relevant prices for any day, if the price published or announced on a given day and used or to be used to determine a relevant price is subsequently corrected and the correction is published or announced by the person responsible for that publication or announcement within thirty (30) days of the date of delivery, either Party may notify the other Party of (i) that correction and (ii) the amount (if any) that is payable as a result of that correction. If a Party gives notice that an amount is so payable, the Party that originally either received or retained such amount will, not later than three (3) Business Days of the effectiveness of that notice, pay that amount, together with interest at the Interest Rate for the period from and including the day on

which payment originally was (or was not) made to but excluding the day of payment of the refund or payment resulting from that correction.

For the purposes of the calculation of a Floating Price, all numbers shall be rounded to three (3) decimal places. If the fourth (4th) decimal number is five (5) or greater, then the third (3rd) decimal number shall be increased by one (1) and if the fourth (4th) decimal number is less than five (5), then the third (3rd) decimal number shall remain unchanged.

ARTICLE 12 RATES AND TERMS BINDING; FERC STANDARD OF REVIEW

Mobile-Sierra Doctrine.

12.1 Absent the agreement of all Parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Agreement, whether proposed by a Party (to the extent that any waiver in Subsection 12.2 below is unenforceable or ineffective as to such Party), a non-party or FERC acting *sua sponte*, shall solely be the "public interest" application of the "just and reasonable" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) and clarified by Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish 554 U.S. ___ (2008) (the "Mobile-Sierra" doctrine).

12.2 In addition, and notwithstanding the foregoing Subsection 12.1, to the fullest extent permitted by applicable law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, whether under §§ 205 and/or 206 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any section of this Agreement specifying the rate, charge, classification, or other term or condition agreed to by the Parties, it being the express intent of the Parties that, to the fullest extent permitted by applicable law, neither Party shall unilaterally seek to obtain from FERC any relief changing the rate, charge, classification, or other term or condition of this Agreement, notwithstanding any subsequent changes in applicable law or market conditions that may occur. In the event it were to be determined that applicable law precludes the Parties from waiving their rights to seek changes from FERC to their market-based power sales contracts (including entering into covenants not to do so) then this Subsection 12.2 shall not apply, provided that, consistent with the foregoing Subsection 12.1, neither Party shall seek any such changes except solely under the "public interest" application of the "just and reasonable" standard of review and otherwise as set forth in the foregoing Subsection 12.1.

ARTICLE 13 REPRESENTATIONS AND WARRANTIES; INDEMNITY

13.1 Representations and Warranties.

On the Effective Date and throughout the Term, each Party represents and warrants to the other Party that:

13.1.1 it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

13.1.2 it has all regulatory authorizations necessary for it to legally perform its obligations under this Agreement;

13.1.3 the execution, delivery and performance of this Agreement; are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;

13.1.4 this Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms; subject only to any Equitable Defenses;

13.1.5 it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;

13.1.6 there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement;

13.1.7 no Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement;

13.1.8 it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement;

13.1.9 it is a “forward contract merchant” within the meaning of the United States Bankruptcy Code;

13.1.10 it has entered into this Agreement; in connection with the conduct of its business and it has the capacity or ability to make or take delivery of all Products referred to in this Agreement;

13.1.11 with respect to this Agreement; involving the purchase or sale of a Product, it is a producer, processor, commercial user or merchant handling the Product, and it is entering into this Agreement for purposes related to its business as such; and

13.1.12 the material economic terms of this Agreement were subject to individual negotiation by the Parties.

13.2 Indemnity.

To the fullest extent permitted by law, each Party (the “Indemnitor”) hereby indemnifies and agrees to defend and hold harmless the other Party (the “Indemnitee”) from and against any Indemnity Claims caused by, resulting from, relating to or arising out of any act or incident involving or related to the Product and occurring at any time when the Product is under the Indemnitor’s possession and control; provided, however, that the Indemnitor shall not have any obligation to indemnify the Indemnitee from or against any Indemnity Claims caused by, resulting from, relating to or arising out of the negligence or intentional misconduct of the Indemnitee.

**ARTICLE 14
TITLE AND RISK OF LOSS**

Title and risk of loss related to the Product shall transfer from Counterparty to PGE at the Delivery Point. Counterparty warrants that it will deliver to PGE the Contract Quantity of the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to delivery to PGE at the Delivery Point.

**ARTICLE 15
ASSIGNMENT; BINDING EFFECT**

15.1 Assignment.

Neither Party shall assign this Agreement nor its rights hereunder to any entity whose Credit Rating is not equal to or higher than that of such Party and is at least above BBB- by S&P and Baa3 by Moody’s. No assignment may be made without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed; provided, however, either Party may, without the consent of the other Party (and without relieving itself from liability hereunder), (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements, (ii) transfer or assign this Agreement to an Affiliate of such Party which Affiliate’s Credit Rating is equal to or higher than that of such Party, or (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of its assets whose Credit Rating is equal to or higher than that of such Party; provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof and so long as the transferring Party delivers such tax and enforceability assurance as the non-transferring Party may reasonably request.

15.2 Binding Effect.

This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. No assignment or transfer permitted

hereunder shall relieve the assigning or transferring Party of any of its obligations under this Agreement.

ARTICLE 16 GOVERNING LAW

THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF OREGON, WITHOUT REGARD TO ITS PRINCIPLES OF CONFLICTS OF LAW. FOR ANY DISPUTE HELD NOT ARBITRABLE HEREUNDER EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION RELATING TO SUCH DISPUTE.

ARTICLE 17 ARBITRATION

Any claim, counterclaim, demand, cause of action, dispute, and controversy arising out of or relating to this Agreement or the relationship established by this Agreement, any provision hereof, the alleged breach thereof, or in any way relating to the subject matter of this Agreement, involving the Parties and/or their respective representatives (for purposes of this Article 17 only, collectively the “Claims”), even though some or all of such Claims allegedly are extra-contractual in nature, whether such Claims sound in contract, tort, or otherwise, at law or in equity, under state or federal law, whether provided by statute or the common law, for damages or any other relief, shall be resolved by binding arbitration. Arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The validity, construction, and interpretation of this agreement to arbitrate, and all procedural aspects of the arbitration conducted pursuant hereto shall be decided by the arbitrators. In deciding the substance of the Parties’ Claims, the arbitrators shall apply to the governing law. It is agreed that the arbitrators shall have no authority to award treble, exemplary or punitive damages of any type under any circumstances whether or not such damages may be available under state or federal law, or under the Federal Arbitration Act, or under the Commercial Arbitration Rules of the American Arbitration Association, the Parties hereby waiving their right, if any, to recover any such damages. The arbitration proceeding shall be conducted in Portland, Oregon. Within thirty (30) days of the notice of initiation of the arbitration procedure, each party shall select one arbitrator. The two (2) arbitrators shall select a third arbitrator. The third arbitrator shall be a person who has over eight years professional experience in electrical energy-related contractual arrangements and who has not previously been employed by either Party and does not have a direct or indirect interest in either Party or the subject matter of the arbitration. While the third arbitrator shall be neutral, the two party-appointed arbitrators are not required to be neutral, and it shall not be grounds for removal of either of the two party-appointed arbitrators or for vacating the arbitrators’ award that either of such arbitrators has past or present relationships with the Party that appointed such arbitrator. To the fullest extent permitted by law, any arbitration proceeding and the arbitrator’s award shall be maintained in confidence by the Parties.

ARTICLE 18 RECORDS AND AUDIT

18.1 Records.

Each Party shall keep proper books of records and account, in which full and correct entries shall be made of all dealings or transactions of or in relation to this Agreement in accordance with generally accepted accounting principles, consistently applied.

18.2 Audit Rights.

Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If requested, a Party shall provide to the other Party statements evidencing the quantity delivered at the Delivery Point. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twenty-four (24) months from the rendition thereof, and thereafter any objection shall be deemed waived.

ARTICLE 19 GENERAL PROVISIONS

19.1 General.

This Agreement (including the exhibits, appendices and any written supplements hereto), any designated collateral, credit support or margin agreement or similar arrangement between the Parties under this Agreement constitute the entire agreement between the Parties relating to the subject matter.

This Agreement shall be considered for all purposes as prepared through the joint efforts of the parties and shall not be construed against one party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

Each Party agrees if it seeks to amend any applicable wholesale power sales tariff during the term of this Agreement, such amendment will not in any way affect the remaining performance under this Agreement without the prior written consent of the other Party. Each Party further agrees that it will not assert, or defend itself, on the basis that any applicable tariff is inconsistent with this Agreement. This Agreement shall not impart any rights enforceable by any third party (other than a successor or permitted assignee bound to this Agreement).

19.2 Entirety.

This Agreement and the appendices and exhibits hereto constitute the entire agreement between the Parties and supersede all prior discussions and agreements between the Parties with respect to the subject matter hereof. There are no prior or contemporaneous agreements or representations affecting the same subject matter other than those herein expressed. Except for any matters which, in accordance with the express provisions of this Agreement, may be resolved by verbal agreement between the Parties, no amendment, modification or change herein shall be enforceable unless reduced to writing and executed by both Parties.

19.3 Non-Waiver.

No waiver by any Party hereto of any one or more defaults by the other Party in the performance of any of the provisions of this Agreement shall be construed as a waiver of any other default or defaults whether of a like kind or different nature. No failure or delay by either Party hereto in exercising any right, power, privilege, or remedy hereunder shall operate as a waiver thereof.

19.4 Severability.

Any provision of this Agreement declared or rendered invalid, unlawful, or unenforceable by any applicable court of law or regulatory agency or deemed unlawful because of a statutory change (individually or collectively, such events referred to as “Regulatory Event”) will not otherwise affect the remaining lawful obligations that arise under this Agreement; and provided, further, that if a Regulatory Event occurs, the Parties shall use their best efforts to reform this Agreement in order to give effect to the original intention of the Parties.

19.5 Survival.

All indemnity and audit rights shall survive the termination of this Agreement. All obligations provided in this Agreement shall remain in effect, after the expiration or termination for any reason of this Agreement, for the purpose of complying herewith.

19.6 Forward Contract.

The Parties acknowledge and agree that this Agreement constitutes a “forward contract” within the meaning of the United States Bankruptcy Code.

19.7 Relationships of Parties.

The Parties shall not be deemed in a relationship of partners or joint venturers by virtue of this Agreement, nor shall either Party be an agent, representative, trustee or fiduciary of the other. Neither Party shall have any authority to bind the other to any agreement. This Agreement is intended to secure and provide for the services of each Party as an independent contractor.

19.8 Headings and Exhibits.

The headings used for the sections and articles herein are for convenience and reference purposes only and shall in no way affect the meaning or interpretation of the provisions of this Agreement. Any and all exhibits and appendices referred to in this Agreement are, by such reference, incorporated herein and made a part hereof for all purposes.

ARTICLE 20 CONFIDENTIALITY

Neither Party shall disclose the terms or conditions of this Agreement to a third party (other than the Party's employees, lenders, counsel, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential) except to comply with any applicable law, regulation, or any exchange, Balancing Authority Area or independent system operator rule or in connection with any court or regulatory proceeding; provided, however, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation.

ARTICLE 21 NOTICES AND COUNTERPARTS

21.1 Notices.

21.1.1 All notices, requests, statements or payments shall be made to the addresses and persons specified in Exhibit A hereto. All notices, requests, statements or payments shall be made in writing except where this Agreement expressly provides that notice may be made orally. Notices required to be in writing shall be delivered by hand delivery, overnight delivery, facsimile, e-mail (so long as a copy of such e-mail notice is provided immediately thereafter by hand delivery, overnight delivery, or facsimile), or other documentary form. Notice by facsimile shall (where confirmation of successful transmission is received) be deemed to have been received on the day on which it was transmitted (unless transmitted after 5:00 p.m. at the place of receipt or on a day that is not a Business Day, in which case it shall be deemed received on the next Business Day); provided that Scheduling and Dispatch notifications sent by facsimile shall be treated as received when confirmation of successful transmission is received. Notice by hand delivery or overnight delivery shall be deemed to have been received when delivered. Notice by e-mail shall be deemed to have been received when delivered, so long as a copy of such e-mail notice is provided immediately thereafter by hand delivery, overnight delivery, courier or facsimile. Notice by telephone shall be deemed to have been received at the time the call is received.

21.1.2 A Party may change its address by providing notice of the same in accordance with the provisions of Section 21.1.1

21.2 Counterparts.

This Agreement may be executed in counterparts, each of which is an original and all of which constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Wholesale Purchase and Sale Agreement for Physical Capacity to be duly executed by their duly authorized representatives. This Agreement shall not become effective as to either Party unless and until executed by both Parties.

PORTLAND GENERAL ELECTRIC COMPANY [COUNTERPARTY]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A

NOTICES

Portland General Electric Company (“PGE”)

Counterparty (“Counterparty” or “Name”)

All Notices:

All Notices:

Street: 121 SW Salmon Street
City: Portland, Oregon 97204
Attn: Power Contracts; 3WTCBR06
Phone: (503) 464-____
Facsimile: (503) 464-2605
Duns: 00-790-9054
Federal Tax ID Number: 93-0256820

Street: _____
City: _____ Zip: _____
Attn: Contract Administration
Phone: _____
Facsimile: _____
Duns: _____
Federal Tax ID Number: _____

Invoices:

Attn: Accounts Payable
Phone: (503) 464-7126
Facsimile: 464-7006

Invoices:

Attn: _____
Phone: _____
Facsimile: _____

Scheduling:

Attn: Manager Power Coordination
Phone: (503) 464-7241
Facsimile: (503) 464-2605

Scheduling:

Attn: _____
Phone: _____
Facsimile: _____

Wire Transfer:

BNK: United States National Bank of Oregon-
Portland
ABA: 123000220
ACCT: #153600063512
NAME: Portland General Electric Company

Wire Transfer:

BNK: _____
ABA: _____
ACCT: _____

Credit and Collections:

Attn: Credit Manager
Phone: (503) 464-_____
Facsimile: (503) 464-2605

Credit and Collections:

Attn: _____
Phone: _____
Facsimile: _____

With additional Notices of an Event of Default to:

Attn: General Counsel
Phone: (503) 464-7822
Facsimile: (503) 464-2200

With additional Notices of an Event of Default to:

Attn: _____
Phone: _____
Facsimile: _____

APPENDIX G

**CAPACITY EXCHANGE
WHOLESALE POWER PURCHASE AND SALE AGREEMENT**

Between

Portland General Electric Company

And

[Counterparty]

This WHOLESALE POWER PURCHASE AND SALE AGREEMENT for [insert name of specific Capacity Exchange Product – see sample in the Capacity RFP document in the Contract Terms and Conditions section] Capacity Exchange (“Agreement”) is entered into effective as of the _____ day of _____, 2011 (“Effective Date”), by and between [Counterparty], a [STATE] corporation (“Counterparty”) with an office at, and Portland General Electric Company, an Oregon corporation (“PGE”) with offices at 121 SW Salmon Street, Portland, Oregon 97204. Counterparty and PGE are also referred to herein individually as a “Party” and collectively as the “Parties.”

ARTICLE 1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

As used in this Agreement, the following terms, when initially capitalized, shall have the meanings specified in this Section 1.1.

1.1.1 “Affiliate” means, with respect to a Party, any Person, any other Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person. For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power or the ability to direct the activities of a Person. For the purposes of this Agreement, except for Section 15.1, PGE will be deemed to have no Affiliates.

1.1.2 “Agreement” means this Wholesale Power Purchase and Sale Agreement for _____ Capacity Exchange entered into between Counterparty and PGE and all incorporated appendices, exhibits, and attachments hereto, as may be amended by the Parties from time to time.

1.1.3 “Ancillary Services” means all ancillary products associated, in accordance with Prudent Electric Industry Practice, with the generation of electrical Energy, including, without limitation, spinning reserves, non-spinning reserves, reactive power and voltage control.

1.1.4 Balancing Authority Area means an electric power system or combination of electric power systems under the control of an operator who acts to (i) match, at all times, the power output of the electric generator within the electric power system(s) and the capacity and energy purchased from entities outside the electric power system(s), with the load within the electric power system(s), (ii) maintain scheduled interchange with other control areas, within the limits of Prudent Electric Utility Practice, (iii) maintain the frequency of the electric power system(s) within reasonable limits in accordance with Prudent Electric Utility Practice and (iv) provide sufficient generating capacity to maintain operating reserves in accordance with Prudent Electric Utility Practice.

1.1.4 “Bankrupt” means with respect to any entity, such entity (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

1.1.5 “Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party’s principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party by whom the notice or payment or delivery is to be received.

1.1.6 “Capacity” means firm electric generating capability, expressed in megawatts (MW).

1.1.7 “Capacity Charge” means USD _____/kW Month.

1.1.8 “Capacity Exchange Product” means one or more of the Seasonal Peaking Capacity Products – Flexible Capacity Product, Fixed Strike Daily Physical Capacity, Daily Exchange, Short Term Exchange and Seasonal Exchange as defined in the Capacity RFP document in the Contract Terms and Conditions section.

1.1.9 “Claiming Party” has the meaning set forth in Section 4.2.

1.1.10 “Collateral Threshold” means, with respect to PGE, \$_____ in USD (or its equivalent in another currency), and with respect to Counterparty \$_____ in USD (or its equivalent in another currency), provided, however, that a Party’s Collateral Threshold shall be zero (\$0) upon the occurrence and during the continuance of an Event of Default, or Material Adverse Change with respect to such Party.

1.1.11 “Contract Price” means Capacity Charge, Energy Charge [*if applicable*], and any of the other charges which have been agreed to by the Parties under this Agreement.

1.1.12 “Contract Quantity” means that MWh quantity of the Product that Counterparty agrees to make available or sell and deliver, or cause to be delivered, to PGE, and that PGE agrees to purchase and receive, or cause to be received, from Counterparty; or the MWh quantity of the Product that PGE agrees to make available or sell and deliver, or cause to be delivered, to Counterparty and that Counterparty agrees to purchase and receive, or cause to be received, from PGE as specified in this Agreement.

1.1.13 “Contract Term” means the period of time referenced in Section 2.1.

1.1.14 “Costs” means, with respect to a Party, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such Party in entering into new arrangements which replace this Agreement and all reasonable attorneys’ fees and expenses incurred by a Party in connection with enforcing its rights under this Agreement. Costs shall not include any expenses incurred by such Party in either entering or terminating any arrangement pursuant to which it has hedged its obligations.

1.1.15 “Counterparty” means _____, the Party to this Agreement that is obligated to sell and deliver and, or cause to be delivered, and accept for return from PGE, the Product, as specified in this Agreement.

1.1.16 “Credit Rating” means (i) with respect to any entity other than a financial institution, the (a) current ratings issued or maintained by S&P or Moody’s with respect to such entity’s long-term senior, unsecured, unsubordinated debt obligations (not supported by third party credit enhancements) or (b) corporate credit rating or long-term issuer rating issued or maintained with respect to such entity by S&P or Moody’s, or (ii) if such entity is a financial institution, the ratings issued or maintained by S&P or Moody’s with respect to such entity’s long-term, unsecured, unsubordinated deposits.

1.1.17 “Cross Default Amount” means with respect to Counterparty or its Guarantor, if applicable, USD_____ (or its equivalent in another currency), and with respect to PGE, USD_____ (or its equivalent in another currency).

1.1.18 “Daily” means any 24-Hour period commencing at 0000 Hours.

1.1.19 “Defaulting Party” has the meaning set forth in Section 5.1.

1.1.20 “Delivery” means Exchange Energy is delivered by Counterparty to PGE, or Exchange Energy is delivered by PGE to Counterparty.

1.1.21 “Delivery Period” has the meaning set forth in Section 2.2.

1.1.22 “Delivery Point” means the point at which the Product will be delivered and received, as specified in the Scheduling notice.

1.1.23 “Determination Period” means each Month during the Contract Term; provided that if the remaining term of the Agreement is less than one Month, the Determination Period shall be the remaining term of the Agreement.

1.1.24 “Early Termination Date” has the meaning set forth in Section 5.2.1.

1.1.25 “Effective Date” is the day on which the last signatory signs this Agreement.

1.1.26 “Energy” means electric energy, expressed in megawatt hours (“MWh”), delivered by Counterparty to PGE, or returned by PGE to Counterparty pursuant to this Agreement.

1.1.27 “Energy Charge” means USD _____.

1.1.28 “Equitable Defenses” means any bankruptcy, insolvency, reorganization and other laws affecting creditors’ rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending.

1.1.29 “Event of Default” has the meaning set forth in Section 5.1.

1.1.30 “Exchange Energy” means Firm Energy associated with Firm Capacity Exchange Product.

1.1.31 “FERC” means the Federal Energy Regulatory Commission or any successor government agency.

1.1.32 “Firm” used in the context of “Firm” Capacity or Exchange Energy means the only excuse for the interruption of delivery of the Product is if the interruption is excused by Force Majeure.

1.1.33 “Floating Price” means the price specified in this Agreement that is based upon a Price Source.

1.1.34 “Force Majeure” is defined in Section 4.1.

1.1.35 “Gains” means, with respect to a Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of its obligations with respect to this Agreement determined in a commercially reasonable manner.

1.1.36 “Governmental Authority” means any national, state, provincial or local government, any political subdivision thereof or any other governmental, regulatory, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law; provided, however, that “Governmental Authority” shall not in any event include either Party.

1.1.37 “Governmental Charges” means any charges or costs that are assessed or levied by any entity, including local, state or federal regulatory or taxing authorities or any Transmission Provider that would affect sale and purchase of a Product contemplated by this Agreement, either directly or indirectly.

1.1.38 “Guarantor” means, with respect to Counterparty, _____.

1.1.39 “Guaranty” means an instrument or agreement pursuant to which Guarantor guarantees the performance of each and all of the obligations of Counterparty, which instrument or agreement is reasonably acceptable in form and substance to PGE.

1.1.40 “Guaranty Default” means with respect to a Guaranty or the Guarantor thereunder, the occurrence of any of the following events: (i) any representation or warranty made or deemed to be made or repeated by such Guarantor in connection with such Guaranty shall be false or misleading in any material respect when made or when deemed made or repeated; (ii) such Guarantor fails to pay, when due, any amount required pursuant to such Guaranty; (iii) the failure of such Guarantor to comply with or timely perform any other material covenant or obligation set forth in such Guaranty if such failure is not capable of remedy or shall not be remedied in accordance with the terms and conditions of such Guaranty; (iv) a Merger Event occurs with respect to such Guarantor; (v) such Guaranty shall expire or terminate, or shall fail or cease to be in full force and effect and enforceable in accordance with its terms against such Guarantor, prior to the satisfaction of all obligations of such Party under this Agreement, in any such case without replacement; (vi) such Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of, its Guaranty, or (vii) such Guarantor becomes Bankrupt; provided, however, that no Guaranty Default shall occur or be continuing in any event with respect to a Guaranty after the time such Guaranty is required to be canceled or returned to a Party in accordance with the terms of this Agreement.

1.1.41 “Indemnitee” has the meaning set forth in Section 13.2.

1.1.42 “Indemnitor” has the meaning set forth in Section 13.2.

1.1.43 “Indemnity Claims” means all third party claims or actions, threatened or filed, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, attorneys’ fees and court costs, whether resulting from a settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.

1.1.43 “Interest Rate” means, for any date, the lesser of (i) the maximum amount allowed by applicable law or (ii) the Federal Funds Rate for the holding period plus 200 basis points (2.00). “Federal Funds Rate” means the effective Federal Funds Rate as published daily by the Federal Reserve Bank H.15 Statistical Release website for each day of the holding period. Such interest shall be calculated on the basis of the actual number of days elapsed over a year of 360 days

1.1.44 “kW” means kilowatt, and “kW Month” means the number of kW per Month.

1.1.45 “Law” means any law, rule, regulation, order, writ, judgment, rulings or orders by or before any court or any governmental authority.

1.1.46 “Letter(s) of Credit” means one or more irrevocable, transferable, standby letters of credit issued by a major U.S. commercial bank or a U.S. branch office of a major foreign commercial bank with such bank having shareholder’s equity of at least \$10 billion USD and a Credit Rating of at least A1 from Moody’s or A+ from S&P, in a form and substance reasonably acceptable to the Party in whose favor the letter of credit is issued. The costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.

1.1.47 “Letter of Credit Default” means with respect to a Letter of Credit the occurrence of any of the following events: (i) the issuer of such Letter of Credit shall fail to be a major U.S. commercial bank or a U.S. branch office of a major foreign commercial bank with such bank having shareholders’ equity of at least \$10 billion USD and a Credit Rating of at least A1 from Moody’s or A+ from S&P; (ii) the issuer of the Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit; (iii) the issuer of such Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit; (iv) such Letter of Credit shall expire or terminate, or shall fail or cease to be in full force and effect at any time during the Contract Term, in any such case without replacement; (v) the issuer of such Letter of Credit shall become Bankrupt; or (vi) a Merger Event occurs with respect to the issuer of such Letter of Credit; provided, however, that no Letter of Credit Default shall occur or be continuing in any event with respect to a Letter of Credit after the time such Letter of Credit is required to be canceled or returned in accordance with the terms of this Agreement.

1.1.48 “Losses” means, with respect to a Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of its obligations with respect to this Agreement determined in a commercially reasonable manner.

1.1.49 “Market Disruption Event” means, with respect to any Price Source, any of the following events (the existence of which shall be determined in good faith by PGE): (a) the failure of the Price Source to report, publish or announce information necessary for determining the Floating Price; (b) the failure of trading to commence or the permanent discontinuation or material suspension of trading in the relevant options contract or commodity in the market acting as the Floating Price; (c) the temporary or permanent discontinuance or unavailability of the Price Source; (d) the temporary or permanent closing of any exchange specified for determining a Floating Price; or (e) a material change in the formula for or the method of determining the Floating Price.

1.1.50 “Material Adverse Change” means (i) with respect to PGE, PGE shall have a Credit Rating below BBB- by S&P and below Baa3 by Moody’s or both ratings are withdrawn or terminated on a voluntary basis by the rating agencies, (ii) with respect to Counterparty, Counterparty or Counterparty’s Guarantor, if applicable, shall have a Credit Rating below BBB- by S&P and below Baa3 by Moody’s or both ratings are withdrawn or terminated on a voluntary basis by the rating agencies, if rated by both services. If Counterparty or Counterparty’s Guarantor is rated by only one service, a

Material Adverse Change shall occur if such rating falls below the pertinent level specified above or if such rating is withdrawn or terminated on a voluntary basis by the rating agency.

1.1.51 “Merger Event” means, with respect to a Party or other entity, that such Party or other entity consolidates or amalgamates with, or merges into or with, or transfers all or substantially all of its assets to another entity, and (i) the resulting, surviving or transferee entity fails, at the time of such consolidation, amalgamation, merger or transfer, to assume each and all of the obligations of such Party or other entity hereunder or under any Guaranty or Letter of Credit or other performance assurance, either by operation of law or pursuant to an agreement reasonably satisfactory to the other Party, or (ii) the benefits of any Guaranty, Letter of Credit, or other performance assurance or credit support provided pursuant to this Agreement fail, at any time following such consolidation, amalgamation, merger or transfer, to extend to the performance by such Party or such resulting, surviving or transferee entity of its obligations hereunder, or (iii) the Credit Rating (from any of S&P or Moody’s) of the resulting, surviving or transferee entity is not equal to or higher than that of such Party or other entity immediately prior to such consolidation, amalgamation, merger, or transfer.

1.1.52 “Month” means a calendar month commencing at HE 0100 PPT on the first day of such month through HE 2400 PPT on the last day of such month.

1.1.53 “Moody’s” means Moody’s Investor Services, Inc. or its successor.

1.1.54 “MW” means megawatt.

1.1.55 “MWh” means megawatt hour.

1.1.56 “Non-Defaulting Party” has the meaning set forth in Section 5.2.1.

1.1.57 “Off-Peak Hours” shall mean all hours ending 01:00:00 through 06:00:00 and hours ending 23:00:00 through 24:00:00, PPT, Monday through Saturday and hours ending 01:00:00 through 24:00:00, PPT, on Sundays and NERC holidays.

1.1.58 “On-Peak Hours” shall mean all hours ending 07:00:00 through 22:00:00 PPT, Monday through Saturday, excluding NERC designated holidays.

1.1.59 “Performance Assurance” means collateral in the form of cash, Letter(s) of Credit, or other security acceptable to the Non-Defaulting Party.

1.1.60 “Person” means an individual, partnership, corporation, limited liability company, joint venture, association, trust, unincorporated organization, Governmental Authority, or other form of entity.

1.1.61 “PPT” means Pacific Prevailing Time, that is, prevailing Standard Time or Daylight Savings Time in the Pacific Time Zone.

1.1.62 “Present Value” means a present value calculation derived by using [a commercially reasonable discount] rate for each remaining Month of the Contract Term.

1.1.63 “Price Source” means a nationally-recognized market price index, recognized and independent brokers or dealers active in the [Hub Name] Next Day physical power market, containing (or reporting) the specified price (or prices from which the specified price is calculated) set forth in this Agreement.

1.1.64 “Product” means electric Capacity, Energy or other product(s) related thereto as specified in this Agreement by the Parties.

1.1.65 “Prudent Electric Industry Practice” means those practices, methods, standards and acts engaged in or approved by a significant portion of the electric power generation industry in the Western Interconnection that at the relevant time period, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts reflect due regard for operation and maintenance standards recommended by the facility’s equipment suppliers and manufacturers, operational limits, and all applicable laws and regulations. Prudent Electric Industry Practice is not intended to be limited to the optimum practice, method, standard or act to the exclusion of all others, but rather to those practices, methods and acts generally acceptable or approved by a significant portion of the electric power generation industry in the relevant region, during the relevant period, as described in the immediately preceding sentence.

1.1.66 “Receipt Point” means the point at which the Product will be delivered and received, as specified in the Scheduling notice.

1.1.67 “Replacement Price” is described in Section 6.1.2.

1.1.68 “Return Delivery Period” means the period during which PGE is obligated to return Energy delivered by Counterparty during the Delivery Period.

1.1.68 “Rounding Amount” means \$250,000 in USD (or its equivalent in another currency).

1.1.69 “S&P” means the Standard & Poor’s, a division of McGraw-Hill Companies, Inc., or any successor thereto.

1.1.70 “Sales Price” is described in Section 6.2.2.

1.1.71 “Schedule,” “Scheduled” or “Scheduling” means the act of each Party or its designated representatives, including its Transmission Provider(s), if applicable, notifying, requesting and confirming to the other, on a preschedule, hourly schedule or real-time schedule basis, the quantity of Power to be delivered hourly on any

given day or days during the Delivery Term to and at and from the Energy Delivery Point according to customary WECC scheduling practices.

1.1.72 “Settlement Amount” means, with respect to this Agreement and the Non-Defaulting Party, the Losses or Gains, and Costs, expressed in USD, which such Party incurs as a result of the termination and liquidation of this Agreement pursuant to Section 5.2.2.

1.1.73 “Taxes” means all taxes, rates, levies, adders, assessments, surcharges, duties and other fees and charges of any nature, including but not limited to ad valorem, consumption, excise, franchise, gross receipts (including any [State Name] business and occupation tax and [State Name] public utility tax and any successor tax thereto), import, export, license, property, sales, stamp, storage, transfer, turnover, use, or value-added taxes, and any and all items of withholding, deficiency, penalty, addition to tax, interest, or assessment related thereto.

1.1.74 “Termination Payment” has the meaning set forth in Section 5.3.

1.1.75 “Trading Day” means a day in respect of which the relevant Price Source reported, published or announced the Floating Price.

1.1.76 “Transmission Provider(s)” means any entity (including any FERC-authorized regional transmission organization) transmitting Energy on behalf of Counterparty to, at and from, the Delivery Point; or on behalf of PGE to, at and from the Delivery Point.

1.1.77 “USD” means United States Dollars.

1.1.78 “WECC” means the Western Electricity Coordinating Council or any successor thereto.

1.2 Interpretations.

Unless the context otherwise requires:

1.2.1 Words singular and plural in number shall be deemed to include the other and pronouns having masculine or feminine gender shall be deemed to include the other.

1.2.2 Subject to Article 15, any reference in this Agreement to any Person includes its successors and permitted assigns and, in the case of any Governmental Authority, any Person succeeding to its functions and capacities.

1.2.3 Any reference in this Agreement to any Section, Exhibit or Appendix means and refers to the Section contained in, or Exhibit or Appendix attached to, this Agreement.

1.2.4 Other grammatical forms of defined words or phrases have corresponding meanings.

1.2.5 A reference to writing includes typewriting, printing, lithography, electronic, photography and any other mode of representing or reproducing words, figures or symbols in a lasting and visible form.

1.2.6 Unless otherwise expressly provided in this Agreement, a reference to a specific time for the performance of an obligation is a reference to that time in the place where that obligation is to be performed.

1.2.7 Unless otherwise expressly provided in this Agreement, a reference to a document or agreement, including this Agreement, includes a reference to that document or agreement as modified, amended, supplemented or restated from time to time.

1.2.8 References in this Agreement to “or” shall be deemed to be disjunctive but not necessarily exclusive (i.e., unless the context dictates otherwise, “or” shall be interpreted to mean “and/or” rather than “either/or”).

1.2.9 If any payment, act, matter or thing hereunder would occur on a day that is not a Business Day, then such payment, act, matter or thing shall, unless otherwise expressly provided for herein, occur on the next Business Day.

1.3 Technical Meanings.

Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used herein in accordance with such recognized meanings.

ARTICLE 2 CONTRACT TERM; DELIVERY PERIOD; PRICE

2.1 Contract Term.

The delivery of Capacity and/or Energy under this Agreement (the “Contract Term”) shall begin on _____[Date] and shall continue through _____[Date], unless otherwise terminated in accordance with its terms, provided, however, that such termination shall not affect or excuse the performance of either Party under any provision of this Agreement that by its terms survives any such termination and, provided further, that this Agreement and any other documents executed and delivered hereunder shall remain in effect until both Parties have fulfilled all of their obligations with respect to this Agreement under Article 6 hereof.

2.2 Delivery Period.

The Product shall be made available by Counterparty during the months of _____[months] of each calendar year, during the Contract Term set forth

in Section 2.1 (“Delivery Period”). The Product shall be returned by PGE during the Return Delivery Period.

2.3 Price.

PGE shall pay to Counterparty a Capacity Charge of USD \$_____/kW Month for Firm Capacity. Under the terms and conditions of this Agreement, the Parties agree that there shall be no charge for Exchange Energy which shall be delivered and returned during the Return Delivery Period. [*insert specific time period and conditions for a specific Capacity Exchange Product under the terms of this Agreement*].

2.4 Delivery Point.

Commencing on the first day of the Contract Term and continuing throughout the Contract Term, Counterparty shall sell and deliver and PGE shall buy and receive at the Delivery Point Firm Capacity and associated Exchange Energy as scheduled by PGE in accordance with Article 3.

ARTICLE 3 OBLIGATIONS; DELIVERIES; SCHEDULING

3.1 Counterparty and PGE’s Obligations.

3.1.1 Delivery of Exchange Energy.

Counterparty shall sell and PGE shall purchase and receive, and have the right to Schedule Exchange Energy in a minimum amount of ___ MWs per hour and ___ per day, up to a maximum amount of ___ MWs per Hour, and _____ MWs per day as a variable quantity elected by PGE on a daily basis during the Delivery Period throughout the Contract Term. Notwithstanding the foregoing, PGE may return Exchange Energy to Counterparty at any hour of the day during the Return Delivery Period in variable quantities. Return of Exchange Energy by PGE may precede Delivery of Exchange Energy by Counterparty.

3.1.2 Counterparty’s Obligation to Deliver.

Counterparty’s obligation to deliver the amount of Scheduled Exchange Energy associated with Firm Capacity purchased by PGE shall be absolute and the only excuse for failure of Counterparty to deliver the Exchange Energy as Scheduled shall be a Force Majeure or PGE’s failure to receive. Counterparty shall deliver the Exchange Energy at all times as Scheduled to the Delivery Point(s) except in cases of Force Majeure or PGE’s failure to receive.

3.1.3 Return of Exchange Energy.

PGE will return to Counterparty the same quality and quantity of Exchange Energy to the Delivery Point, during the Return Delivery Period, [*time period identified for the specific Capacity Exchange Product*] as that delivered by Counterparty,

except that if, by the end of the Return Delivery Period [*insert time period identified for the specific Capacity Exchange Product*], the quantity of Firm Energy exchanged does not net to zero (0) MWh between Counterparty and PGE, the Parties shall [*insert specific treatment as per specific Capacity Exchange Product*].

3.2 Delivery Point.

The Delivery Point for Product delivered by Counterparty to PGE will be at PGE's system or any other alternate Delivery Point mutually agreed to by the Parties.

3.3 Transmission and Scheduling.

3.3.1 Responsibility for Transmission and Scheduling. Counterparty shall arrange for, pay all costs, and be responsible for transmission service, including but not limited to Balancing Authority Area services, spinning and supplemental reserves, imbalances and inadvertent energy flows, and transmission losses and loss charges relating to the transmission of the Product, to the Delivery Point, and at and from the Delivery Point for Return Exchange Energy. Counterparty shall Schedule or arrange for Scheduling services with its Transmission Provider(s), in accordance with the practice of the Transmission Provider(s) to deliver the Exchange Energy to the Delivery Point and to receive the Return Exchange Energy at the Delivery Point.. PGE shall arrange, pay all costs, and be responsible for transmission service, including but not limited to Balancing Authority Area services, spinning and supplemental reserves, imbalances and inadvertent energy flows, and transmission losses and loss charges relating to the transmission of the Product, at and from the Delivery Point, and to the Delivery Point for Return Exchange Energy. PGE shall Schedule or arrange for Scheduling services with its Transmission Provider(s) to receive the Exchange Energy at the Delivery Point, and to deliver the Return Exchange Energy to the Delivery Point. Each Party shall designate authorized representatives to effect the Scheduling of Exchange Energy. All deliveries and receipts of Exchange Energy under this Agreement shall be made at the Delivery Point or other mutually agreed-to delivery point.

3.3.2 Exercise of Option to Schedule Exchange Energy. Under the terms of this Agreement, PGE may exercise its option to schedule Exchange Energy by notifying Counterparty on the customary scheduling day by 6:30 PPT of its intent to schedule Exchange Energy.

3.3.3 Preschedules. The Parties shall exchange preschedules for all deliveries of Energy hereunder, including identification of receiving and generating Balancing Authority Areas, by 10:00:00 PPT on the last Business Day prior to the Scheduled date of delivery. The Parties' respective representatives shall maintain hourly real-time Schedule coordination; provided, however, that in the absence of such coordination, the hourly schedule established by the exchange of preschedules shall be considered final. All schedules hereunder shall be accounted for on the basis of scheduled hourly quantities of Exchange Energy at the Delivery Point, except that when deliveries are interrupted for any reason, schedules shall be reduced thereafter to reflect such interruptions. In case the scheduled deliveries and receipt of Exchange Energy are not

maintained for an entire hour, deliveries shall be pro-rated on a mutually agreed-upon basis. Counterparty and PGE shall maintain records of hourly Exchange Energy schedules for accounting and operating purposes. The final E-Tag shall be the controlling evidence of the Parties' Schedule. All Exchange Energy shall be pre-scheduled according to customary WECC scheduling practices.

ARTICLE 4 FORCE MAJEURE

4.1 Definition.

"Force Majeure" means an event or circumstance which prevents one Party from performing its obligations to deliver or receive Product under this Agreement, which event or circumstance was not anticipated as of the date the purchase or sale was agreed to, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure shall not be based on (i) the loss of the Claiming Party's markets; (ii) The Claiming Party's inability economically to use or resell the Product purchased hereunder; (iii) the loss or failure of Claiming Party's supply; or (iv) The Claiming Party's ability to sell the Product at a price greater than the Contract Price. Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Product to be delivered to or received at the Delivery Point or the Return Delivery Point, as the case may be, and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in the first sentence hereof has occurred.

4.2 Occurrence and Notice.

To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this Agreement and such Party (the "Claiming Party") gives notice and details of the Force Majeure to the other Party as soon as practicable, then, unless the terms of this Agreement specify otherwise, the Claiming Party shall be excused from the performance of its obligations affected by such Force Majeure. The Claiming Party shall remedy the Force Majeure with all reasonable dispatch. The non-Claiming Party shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure.

4.3 Obligations.

No Party shall be relieved by operation of this Article 4 of any liability to pay or to make payments then due or which the Party is obligated to make with respect to performance which occurred prior to the Force Majeure.

ARTICLE 5 EVENTS OF DEFAULT; REMEDIES

5.1 Events of Default.

An “Event of Default” shall mean, with respect to a Party (a “Defaulting Party”), the occurrence of any of the following:

5.1.1 the occurrence of a Material Adverse Change with respect to the Defaulting Party; provided, such Material Adverse Change shall not be considered an Event of Default if the Defaulting Party establishes and maintains for so long as the Material Adverse Change is continuing, Performance Assurance to the Non-Defaulting Party in an amount determined by the Non-Defaulting Party in a commercially reasonable manner;

5.1.2 the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within two (2) Business Days after written notice;

5.1.3 any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated;

5.1.4 the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default, and except for such Party’s obligations to deliver or receive the Product, the exclusive remedy for which is provided in Article 6);

5.1.5 such Party becomes Bankrupt;

5.1.6 the failure of such Party to establish, maintain, extend or increase Performance Assurance when required pursuant to this Agreement;

5.1.7 the occurrence of a Merger Event with respect to such Party or its Guarantor;

5.1.8 the occurrence and continuation of (i) a default, event of default or other similar condition or event in respect of such Party or any other party specified for such Party under one or more agreements or instruments, individually or collectively, relating to indebtedness for borrowed money in an aggregate amount of not less than the applicable Cross Default Amount (as specified in Section 1.1.18) which results in such indebtedness becoming immediately due and payable or (ii) a default by such Party or any other entity specified for such Party in making on the due date therefor one or more payments, individually or collectively, in an aggregate amount of not less than the applicable Cross Default Amount;

5.1.9 the occurrence of a Letter of Credit Default;

5.1.10 with respect to such Party's Guarantor, if any:

5.1.10.1 the failure of the Guarantor's Guaranty to be in full force and effect for purposes of this Agreement (other than in accordance with its terms) prior to the satisfaction of all obligations of the guaranteed Party under this Agreement to which such Guaranty shall relate without the written consent of the other Party; or

5.1.10.2 the occurrence of a Guaranty Default.

5.2 Declaration of an Early Termination Date and Calculation of Settlement Amounts.

5.2.1 Early Termination Date. If an Event of Default with respect to a Defaulting Party shall have occurred at any time during the Contract Term and be continuing, the other Party (the "Non-Defaulting Party") shall have the right to (i) designate a day, no earlier than the day such notice is effective and no later than 20 days after such notice is effective, as an early termination date ("Early Termination Date") on which to liquidate, terminate, and accelerate all amounts owing between the Parties, (ii) withhold any payments due to the Defaulting Party under this Agreement and (iii) suspend performance. If an Early Termination Date has been designated, the Non-Defaulting Party shall calculate, in a commercially reasonable manner, its Gains or Losses and Costs resulting from the termination of this Agreement as of the Early Termination Date and the Termination Payment (hereinafter defined) payable hereunder shall be calculated in accordance with Section 5.2.2 below).

5.2.2 Calculation of Settlement Amounts. The Gains or Losses resulting from the termination of this Agreement shall be determined by calculating the amount that would be incurred or realized to replace or to provide the economic equivalent of the remaining payments or deliveries in respect of this Agreement. The Non-Defaulting Party (or its agent) may determine its Gains and Losses by reference to information either available to it internally or supplied by one or more third parties including, without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets. Third parties supplying such information may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. However, it is expressly agreed that (i) a Party shall not be required to enter into a replacement agreement in order to determine the Termination Payment (as hereafter defined) and (ii) a Party's Gains, Losses or Costs will in no event include any penalties, ratcheted demand or similar charges. At the time for payment of any amount due under this Section 5.2, one Party shall pay to the other Party all additional amounts payable by it pursuant to this Agreement, but all such amounts shall be netted and aggregated with any Termination Payment payable hereunder.

5.3 Net Out of Settlement Amounts.

The Non-Defaulting Party shall aggregate all Settlement Amounts into a single amount by: netting out (i) all Settlement Amounts that are due to the Defaulting Party, plus any cash or other form of security then available to the Non-Defaulting Party under this Agreement, plus any or all other amounts due to the Defaulting Party under this Agreement against (ii) all Settlement Amounts that are due to the Non-Defaulting Party, plus any cash or other form of security then available to the Defaulting Party under this Agreement, plus any or all other amounts due to the Non-Defaulting Party under this Agreement, so that all such amounts shall be netted out to a single liquidated amount (the “Termination Payment”) payable by one Party to the other. The Termination Payment shall be due to or due from the Non-Defaulting Party as appropriate.

5.4 Notice of Payment of Termination Payment.

As soon as practicable after a liquidation, notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to or due from the Non-Defaulting Party. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. If the Termination Payment is due from the Defaulting Party, the Termination Payment shall be made by the Defaulting Party within two (2) Business Days after such notice is effective. Notwithstanding any provision to the contrary contained in this Agreement, the Non-Defaulting Party shall not be required to pay to the Defaulting Party any amount under Article 5 until the earlier of the date (i) the Non-Defaulting Party receives confirmation satisfactory to it in its reasonable discretion (which may include an opinion of its counsel) that all other obligations of any kind whatsoever of the Defaulting Party to make any payments to the Non-Defaulting Party under this Agreement or otherwise which are due and payable as of the Early Termination Date have been fully and finally performed, or (ii) that is 180 days after the Early Termination Date.

5.5 Disputes with Respect to Termination Payment.

If the Defaulting Party disputes the Non-Defaulting Party’s calculation of the Termination Payment in whole or in part, the Defaulting Party shall, within two (2) Business Days of receipt of the Non-Defaulting Party’s calculation of the Termination Payment provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute; provided, however, that if the Termination Payment is due from the Defaulting Party, the Defaulting Party shall first transfer Performance Assurance to the Non-Defaulting Party in an amount equal to the disputed amount of the Termination Payment, and pay the undisputed amount of the Termination Payment as provided above.

5.6 Closeout Setoffs.

After calculation of a Termination Payment in accordance with Section 5.3, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to (i) set off against such Termination Payment any amounts due and owing by the Defaulting Party to the Non-Defaulting Party under any other agreements, instruments or undertakings between the Defaulting

Party and the Non-Defaulting Party and/or (ii) to the extent the purchases or sales are not yet liquidated in accordance with Section 5.3, withhold payment of the Termination Payment to the Defaulting Party. The remedy provided for in this Section shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

5.7 Suspension of Performance.

Notwithstanding any other provision of this Agreement, if an Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, shall have the right (i) to suspend performance under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days with respect to any single Scheduled Product unless an early Termination Date shall have been declared and notice thereof pursuant to Section 5.4 given, and (ii) to the extent an Event of Default shall have occurred and be continuing to exercise any remedy available at law or in equity.

ARTICLE 6
REMEDIES FOR FAILURE TO DELIVER/RECEIVE

6.1 Remedy for Counterparty's Failure to Deliver.

6.1.1 Liquidated Damages Due to PGE. If Counterparty (a) fails to Schedule and/or deliver all or part of the Product pursuant to this Agreement, or (b) fails to receive Return Exchange Energy pursuant to this Agreement, and such failure is not excused under the terms of this Agreement or by PGE's failure to perform, then Counterparty shall pay PGE within five (5) Business Days of invoice receipt, an amount, for (i) such deficiency, equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price, or (ii) such Counterparty failure, equal to the positive difference, if any, obtained by subtracting the Sales Price (as calculated in Section 6.2.2, substituting Counterparty for PGE, and vice versa) from the Contract Price, respectively. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

6.1.2 Calculation of Replacement Price. The Replacement Price in regard to any Product Scheduled but not delivered to PGE by Counterparty shall be the price at which PGE either:

6.1.2.1 purchased for delivery at the Delivery Point a replacement for any such Product in a commercially reasonable manner, adding any:

6.1.2.2 costs reasonably incurred by PGE in replacing such Product; and

6.1.2.3 additional transmission charges, if any, reasonably incurred by PGE in delivering such Product to the Delivery Point; or

6.1.2.4 absent a purchase, then the market price at the Delivery Point for such Product not delivered as determined by PGE in a commercially reasonable manner.

6.1.3 In no event shall such price include any penalties, ratcheted demand or similar charges, nor shall PGE be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Counterparty's liability.

6.2 PGE's Failure.

6.2.1 Liquidated Damages Due to Counterparty. If PGE fails to (a) receive all or part of the Scheduled Product, or (b) to return the Exchange Energy pursuant to the terms of this Agreement, and such failure is not excused under the terms hereof or by Counterparty's failure to perform, then PGE shall pay Counterparty, on the date payment would otherwise be due in respect of the Month in which the failure occurred or within five (5) Business Days of invoice receipt (which ever is earlier), an amount for (i) such deficiency, equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price, or (ii) an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price (as calculated in Section 6.1.2, substituting Counterparty for PGE, and vice versa), respectively. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

6.2.2 Calculation of Sales Price. The Sales Price in regard to any Product Scheduled but not received by PGE shall be the price at which Counterparty:

6.2.2.1 resells for delivery any such Product in a commercially reasonable manner, deducting from such proceeds any:

(a) costs reasonably incurred by Counterparty in reselling such Product; and

(b) additional transmission charges, if any, reasonably incurred by Counterparty in delivering such Product to the third party purchasers; or

6.2.2.2 absent a sale, the market price at the Delivery Point for such Product not received as determined by Counterparty in a commercially reasonable manner.

6.3 In no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Counterparty be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize PGE's liability.

6.4 Duty to Mitigate.

Subject to Sections 6.1.2.4 and 6.2.2.2, each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance of this Agreement.

6.3 Acknowledgement of the Parties.

The Parties stipulate that the payment obligations set forth in this Article 6 are reasonable in light of the anticipated harm and the difficulty of estimation or calculation of actual damages and waive the right to contest such payments as unreasonable or a penalty. If a Party fails to pay undisputed amounts in accordance with this Article 6 when due, the other Party shall have the right to: (i) suspend performance until such amounts plus interest at the Interest Rate have been paid, and/or (ii) exercise any remedy available at Law or in equity to enforce payment of such amounts plus interest at the Interest Rate. With respect to the amount of such damages only, the remedy set forth in this Article 6 shall be the sole and exclusive remedy of the Parties for the failure of Counterparty to sell and deliver, and PGE to purchase and receive or return, the Quantity of Product and all other damages and remedies are hereby waived. Disagreements with respect to the calculation of damages pursuant to this Article 6 shall be submitted to arbitration in accordance with the arbitration procedures set forth in Article 17.

6.4 Survival.

The provisions of this Article 6 shall survive the expiration or termination for any reason of this Agreement.

ARTICLE 7 PAYMENT AND NETTING

7.1 Billing Period.

Unless otherwise specifically agreed upon by the Parties, the calendar month shall be the standard period for all payments under this Agreement (other than for Counterparty or PGE Failure under Sections 6.1 and 6.2 respectively and for termination pursuant to Article 5). On or before the tenth (10th) day of each month, each Party shall render to the other Party an invoice for the payment obligations, if any, incurred hereunder during the preceding month.

7.2 Timeliness of Payment.

Unless otherwise agreed by the Parties, all invoices under this Agreement shall be due and payable in accordance with each Party's invoice instructions on or before the later of the twentieth (20th) day of each month, or the tenth (10th) day after receipt of the invoice or, if such day is not a Business Day, then on the next Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such

interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

7.3 Disputes and Adjustments of Invoices.

A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice, rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twenty-four (24) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned to, upon request, or deducted by the Party making such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party making such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 7.3 within twenty-four (24) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the Month during which performance of this Agreement occurred, the right to payment for such performance is deemed waived.

7.4 Netting of Payments.

The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date under this Agreement through netting, in which case all amounts owed by one Party to the other Party for the purchase and sale of Products during the monthly billing period under this Agreement, including any related damages calculated pursuant to Article 6 (unless one of the Parties elects to accelerate payment of such amounts as permitted by Article 6), interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

7.5 Payment Obligation Absent Netting.

If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, including, but not limited to, any related damage amounts calculated pursuant to Article 6, interest, and payments or credits, that Party shall pay such sum in full when due.

ARTICLE 8 LIMITATIONS

THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

ARTICLE 9 CREDIT AND COLLATERAL REQUIREMENTS

The applicable credit and collateral requirements shall be as follows.

9.1 Financial Information.

If requested by a Party, the other Party shall deliver (i) within 120 days following the end of each fiscal year, a copy of such Party's annual report containing audited consolidated financial statements for such fiscal year and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of such Party's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles, consistently applied; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long

as the other Party diligently pursues the preparation, certification and delivery of the statements. The financial statements of a Party shall be deemed delivered under this Section 9.1 if such statements are available at such Party website on the World Wide Web by the dates specified in the first sentence of this Section 9.1. The website of the Parties are: For PGE, www.portlandgeneral.com; and for Counterparty, _____.com.

9.2 Collateral and Security.

The Parties agree that, in order to secure the obligations of Counterparty to PGE hereunder, subject to Section 9.3 below, Counterparty shall at PGE's request:

9.2.1 cause its Guarantor to execute and deliver to PGE a Guaranty agreement in a form and amount reasonably acceptable to PGE. Such Guaranty shall be delivered prior to the execution and delivery of this Agreement; or

9.2.2 establish and maintain an escrow account for the benefit of PGE in a form and amount reasonably acceptable to PGE. Evidence of such escrow account shall be delivered to PGE concurrently with the execution and delivery of this Agreement. The costs of such escrow account shall be borne by Counterparty; or

9.2.3 provide a cash deposit in an amount reasonably acceptable to PGE. Such cash deposit shall be delivered to PGE concurrently with the execution and delivery of this Agreement; or

9.2.4 provide a Letter of Credit in a form and amount reasonably acceptable to PGE. Such Letter of Credit shall be delivered concurrently with the execution and delivery of this Agreement.

9.3 Provision of Performance Assurance.

If at any time and from time to time during the term of this Agreement (and notwithstanding whether an Event of Default has occurred), the Termination Payment that would be owed to PGE exceeds Counterparty's Collateral Threshold, then PGE, on any Business Day, may request that Counterparty provide Performance Assurance in an amount equal to the lesser of (i) the remaining period of the Contract Term or (ii) for a period of twenty-four (24) months commencing from the date PGE provides notice to Counterparty of such required Performance Assurance, (rounding upwards for any fractional amount to the next Rounding Amount), less any Performance Assurance already posted with PGE. Such Performance Assurance shall be delivered to PGE within two (2) Business Days of the date of such request. On any Business Day (but no more frequently than weekly with respect to Letters of Credit and daily with respect to cash), Counterparty, at its sole cost, may request that such Performance Assurance be reduced correspondingly to the amount of such excess Termination Payment (rounding downwards for any fractional amount to the next Rounding Amount). In the event that Counterparty fails to provide Performance Assurance pursuant to the terms of this Article 9 within two (2) Business Days, then an Event of Default under Article 5 shall be deemed to have occurred and PGE will be entitled to the remedies set forth in Article 5 of this Agreement.

For purposes of this Section 9.3, the calculation of the Termination Payment shall be calculated pursuant to Section 5.3 by PGE as if this Agreement had been liquidated, and in addition thereto, shall include all amounts owed but not yet paid by Counterparty to PGE.

9.4 Grant of Security Interest/Remedies.

To secure its obligations under this Agreement and to the extent Counterparty delivers Performance Assurance hereunder, Counterparty hereby grants to PGE (the “Secured Party”) a present and continuing security interest in, and lien on (and right of setoff against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, PGE, and Counterparty agrees to take such action as PGE reasonably requires in order to perfect the Secured Party’s first-priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.

Upon or at any time after the occurrence and during the continuation of an Event of Default or an Early Termination Date affecting Counterparty, PGE may do any one or more of the following: (i) exercise any of the rights and remedies of a Secured Party with respect to all Performance Assurance, including any such rights and remedies under law then in effect; (ii) exercise its rights of setoff against any and all property of Counterparty in the possession of PGE or its agent; (iii) draw on any outstanding Letter of Credit issued for its benefit; and (iv) liquidate all Performance Assurance then held by or for the benefit of PGE free from any claim or right of any nature whatsoever of Counterparty, including any equity or right of purchase or redemption by Counterparty. PGE shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Counterparty’s obligations under this Agreement (Counterparty remaining liable for any amounts owing to PGE after such application), subject to PGE’s obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

9.5 Holding Performance Assurance.

PGE will be entitled to hold Performance Assurance in the form of cash provided that the following conditions are satisfied: (i) PGE is not a Defaulting Party and has a Credit Rating that is BBB- or higher by S&P or Baa3 or higher by Moody’s and (ii) Performance Assurance is held only in a jurisdiction within the United States.

9.6 Delivery of Performance Assurance.

Upon the occurrence and during the continuance of a Material Adverse Change or an Event of Default with respect to PGE, PGE shall deliver (or cause to be delivered) not later than two (2) Business Days after request by Counterparty, all Performance Assurance in the form of cash in its possession or held on its behalf by a financial institution, to a segregated, safekeeping or custody account (“Collateral Account”) within a financial institution that is a major U.S. commercial bank or a U.S. branch office of a

major foreign commercial bank, with such bank having shareholder's equity of at least \$10 billion USD and a Credit Rating of at least A1 from Moody's or A+ from S&P approved by Counterparty (which approval shall not be unreasonably withheld). The title of the Collateral Account shall indicate that the property contained therein is being held as Performance Assurance for PGE. The financial institution shall serve as custodian with respect to the Performance Assurance in the Collateral Account and shall hold such Performance Assurance for the security interest of PGE and, subject to the security interest, for the ownership of Counterparty.

9.7 Performance Assurance Event of Default.

Failure by PGE to comply with any of the obligations under Section 9.6 will constitute an Event of Default with respect to PGE if the failure continues for two (2) Business Days after notice of the failure is given to PGE.

9.8 Interest Rate on Cash Collateral.

Performance Assurance in the form of cash held by PGE shall bear interest at the Interest Rate on Cash Collateral and shall be paid to the Pledgor on the third Business Day of each calendar month. "Interest Rate on Cash Collateral" means the lesser of (i) the maximum amount allowed by applicable law and (ii) the Federal Funds Rate for the holding period. The "Federal Funds Rate" means the effective Federal Funds Rate as published daily by the Federal Reserve Bank H.15 Statistical Release website for each day of the holding period. Such interest shall be calculated on the basis of the actual number of days elapsed over a year of 360 days.

**ARTICLE 10
GOVERNMENTAL CHARGES**

10.1 Cooperation.

Each Party shall use reasonable efforts to implement the provisions of and to administer this Agreement in accordance with the intent of the Parties to minimize all taxes, so long as neither Party is materially adversely affected by such efforts.

10.2 Non-Sale Related Governmental Charges and Taxes.

The delivering Party shall pay or cause to be paid all charges or taxes imposed by any government authority ("Governmental Charges") on or with respect to the Product arising prior to the Delivery Point. The receiving Party shall pay or cause to be paid all Governmental Charges on or with respect to the Product at and from the Delivery Point (other than those related to the sale of the Product and are, therefore, the responsibility of the delivering Party). In the event Counterparty is required by law or regulation to remit or pay Governmental Charges which are PGE's responsibility hereunder, PGE shall promptly reimburse Counterparty for such Governmental Charges or Counterparty may deduct the amount of such Governmental Charges from the sums due to PGE under Article 7 of this Agreement. If PGE is required by law or regulation to remit or pay Governmental Charges which are Counterparty's responsibility hereunder, Counterparty

shall promptly reimburse PGE for any such Governmental Charges or PGE may deduct the amount of such Governmental Charges from the sums due to Counterparty under Article 7 of this Agreement. However, nothing herein shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under the law.

10.3 Sale-related Governmental Charges and Taxes.

In addition to all other payments required under this Agreement, the delivering Party shall be solely responsible for all existing and any new sales, use, excise, ad valorem, and any other similar taxes imposed or levied by any federal, state or local governmental agency on the Energy sold and delivered hereunder (including any taxes imposed or levied with respect to the transmission of Energy) to the Delivery Point.

10.4 Indemnification.

Each Party shall indemnify, release, defend and hold harmless the other Party from and against any and all liability for taxes imposed or assessed by any taxing authority with respect to the Energy sold, delivered and received hereunder that are the responsibility of such Party pursuant to this Article 10.

**ARTICLE 11
MARKET DISRUPTION**

11.1 Occurrence.

If a Market Disruption Event has occurred and is continuing during the Determination Period, the Floating Price for the affected Trading Day shall be determined pursuant to the Price Source specified in this Agreement for the first Trading Day thereafter on which no Market Disruption Event exists; provided, however, if the Floating Price is not so determined within three (3) Business Days after the first Trading Day on which the Market Disruption Event occurred or existed, then the Parties shall negotiate in good faith to agree on a Floating Price (or a method for determining a Floating Price), and if the Parties have not so agreed on or before the twelfth Business Day following the First Trading Day on which the Market Disruption event occurred or existed, then the Floating Price shall be determined in good faith by PGE, by taking the average of two or more dealer quotes from an equal number of dealers selected by each Party.

11.2 Remedy.

For purposes of determining the relevant prices for any day, if the price published or announced on a given day and used or to be used to determine a relevant price is subsequently corrected and the correction is published or announced by the person responsible for that publication or announcement within thirty (30) days of the date of delivery, either Party may notify the other Party of (i) that correction and (ii) the amount (if any) that is payable as a result of that correction. If a Party gives notice that an amount is so payable, the Party that originally either received or retained such amount will, not later than three (3) Business Days after the effectiveness of that notice pay such amount,

together with interest at the Interest Rate for the period from and including the day on which payment originally was (or was not) made to but excluding the day of payment of the refund or payment resulting from that correction.

For the purposes of the calculation of a Floating Price, all numbers shall be rounded to three (3) decimal places. If the fourth (4th) decimal number is five (5) or greater, then the third (3rd) decimal number shall be increased by one (1) and if the fourth (4th) decimal number is less than five (5), then the third (3rd) decimal number shall remain unchanged.

ARTICLE 12 RATES AND TERMS BINDING; FERC STANDARD OF REVIEW

Mobile-Sierra Doctrine.

12.1 Absent the agreement of all Parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Agreement, whether proposed by a Party (to the extent that any waiver in Subsection 12.2 below is unenforceable or ineffective as to such Party), a non-party or FERC acting *sua sponte*, shall solely be the "public interest" application of the "just and reasonable" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) and clarified by Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish 554 U.S. ___ (2008) (the "Mobile-Sierra" doctrine).

12.2 In addition, and notwithstanding the foregoing Subsection 12.1, to the fullest extent permitted by applicable law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, whether under §§ 205 and/or 206 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any section of this Agreement specifying the rate, charge, classification, or other term or condition agreed to by the Parties, it being the express intent of the Parties that, to the fullest extent permitted by applicable law, neither Party shall unilaterally seek to obtain from FERC any relief changing the rate, charge, classification, or other term or condition of this Agreement, notwithstanding any subsequent changes in applicable law or market conditions that may occur. In the event it were to be determined that applicable law precludes the Parties from waiving their rights to seek changes from FERC to their market-based power sales contracts (including entering into covenants not to do so) then this Subsection 12.2 shall not apply, provided that, consistent with the foregoing Subsection 12.1, neither Party shall seek any such changes except solely under the "public interest" application of the "just and reasonable" standard of review and otherwise as set forth in the foregoing Subsection 12.1.

ARTICLE 13
REPRESENTATIONS AND WARRANTIES; INDEMNITY

13.1 Representations and Warranties.

On the Effective Date and throughout the Contract Term, each Party represents and warrants to the other Party that:

13.1.1 it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

13.1.2 it has all regulatory authorizations necessary for it to legally perform its obligations under this Agreement;

13.1.3 the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;

13.1.4 this Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, subject only to any Equitable Defenses;

13.1.5 it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;

13.1.6 there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement;

13.1.7 no Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement;

13.1.8 it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement;

13.1.9 it is a “forward contract merchant” within the meaning of the United States Bankruptcy Code;

13.1.10 it has entered into this Agreement in connection with the conduct of its business and it has the capacity or ability to make or take delivery of all Products referred to in this Agreement;

13.1.11 with respect to this Agreement involving the purchase or sale of a Product, it is a producer, processor, commercial user or merchant handling the Product, and it is entering into this Agreement for purposes related to its business as such; and

13.1.12 the material economic terms of this Agreement were subject to individual negotiation by the Parties.

13.2 Indemnity.

To the fullest extent permitted by law, each Party (the “Indemnitor”) hereby indemnifies and agrees to defend and hold harmless the other Party (the “Indemnitee”) from and against any Indemnity Claims caused by, resulting from, relating to or arising out of any act or incident involving or related to the Product and occurring at any time when the Product is under the Indemnitor’s possession and control; provided, however, that the Indemnitor shall not have any obligation to indemnify the Indemnitee from or against any Indemnity Claims caused by, resulting from, relating to or arising out of the negligence or intentional misconduct of the Indemnitee.

**ARTICLE 14
TITLE AND RISK OF LOSS**

Title and risk of loss related to the Product shall transfer from one Party to the other Party at the Delivery Point or the Return Delivery Point, as the case may be. Each Party warrants that it will deliver to the other Party the Contract Quantity of the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to delivery at the Delivery Point.

**ARTICLE 15
ASSIGNMENT; BINDING EFFECT**

15.1 Assignment.

Neither Party shall assign this Agreement or its rights hereunder to any entity whose Credit Rating is not equal to or higher than that of such Party and is at least above BBB- by S&P and Baa3 by Moody’s. No assignment may be made without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed; provided, however, either Party may, without the consent of the other Party (and without relieving itself from liability hereunder), (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements, (ii) transfer or assign this Agreement to an Affiliate of such Party which Affiliate’s Credit Rating is equal to or higher than that of such Party, or (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of its assets whose Credit Rating is equal to or higher than that of such Party; provided, however, that in each such case, any such assignee shall agree in

writing to be bound by the terms and conditions hereof and so long as the transferring Party delivers such tax and enforceability assurance as the non-transferring Party may reasonably request.

15.2 Binding Effect.

This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. No assignment or transfer permitted hereunder shall relieve the assigning or transferring Party of any of its obligations under this Agreement.

**ARTICLE 16
GOVERNING LAW**

THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF OREGON, WITHOUT REGARD TO ITS PRINCIPLES OF CONFLICTS OF LAW. FOR ANY DISPUTE HELD NOT ARBITRABLE HEREUNDER EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION RELATING TO SUCH DISPUTE.

**ARTICLE 17
ARBITRATION**

Any claim, counterclaim, demand, cause of action, dispute, and controversy arising out of or relating to this Agreement or the relationship established by this Agreement, any provision hereof, the alleged breach thereof, or in any way relating to the subject matter of this Agreement, involving the Parties and/or their respective representatives (for purposes of this Article 17 only, collectively the "Claims"), even though some or all of such Claims allegedly are extra-contractual in nature, whether such Claims sound in contract, tort, or otherwise, at law or in equity, under state or federal law, whether provided by statute or the common law, for damages or any other relief, shall be resolved by binding arbitration. Arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The validity, construction, and interpretation of this agreement to arbitrate, and all procedural aspects of the arbitration conducted pursuant hereto shall be decided by the arbitrators. In deciding the substance of the Parties' Claims, the arbitrators shall apply the governing law. It is agreed that the arbitrators shall have no authority to award treble, exemplary or punitive damages of any type under any circumstances whether or not such damages may be available under state or federal law, or under the Federal Arbitration Act, or under the Commercial Arbitration Rules of the American Arbitration Association, the Parties hereby waiving their right, if any, to recover any such damages. The arbitration proceeding shall be conducted in Portland, Oregon. Within thirty (30) days of the notice of initiation of the arbitration procedure, each party shall select one arbitrator. The two (2) arbitrators shall select a third arbitrator. The third arbitrator shall be a person who has over eight years professional experience in electrical energy-related contractual

arrangements and who has not previously been employed by either Party and does not have a direct or indirect interest in either Party or the subject matter of the arbitration. While the third arbitrator shall be neutral, the two party-appointed arbitrators are not required to be neutral, and it shall not be grounds for removal of either of the two party-appointed arbitrators or for vacating the arbitrators' award that either of such arbitrators has past or present relationships with the Party that appointed such arbitrator. To the fullest extent permitted by law, any arbitration proceeding and the arbitrator's award shall be maintained in confidence by the Parties.

ARTICLE 18 RECORDS AND AUDIT

18.1 Records.

Each Party shall keep proper books of records and account, in which full and correct entries shall be made of all dealings or transactions of or in relation to this Agreement in accordance with generally accepted accounting principles, consistently applied.

18.2 Audit Rights.

Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If requested, a Party shall provide to the other Party statements evidencing the quantity delivered at the Delivery Point. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twenty-four (24) months from the rendition thereof, and thereafter any objection shall be deemed waived.

ARTICLE 19 GENERAL PROVISIONS

19.1 General.

This Agreement (including the exhibits, appendices and any written supplements hereto), any designated collateral, credit support or margin agreement or similar arrangement between the Parties under this Agreement constitute the entire agreement between the Parties relating to the subject matter.

This Agreement shall be considered for all purposes as prepared through the joint efforts of the parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

Each Party agrees if it seeks to amend any applicable wholesale power sales tariff during the term of this Agreement, such amendment will not in any way affect the remaining performance under this Agreement without the prior written consent of the other Party. Each Party further agrees that it will not assert, or defend itself, on the basis that any applicable tariff is inconsistent with this Agreement. This Agreement shall not impart any rights enforceable by any third party (other than a successor or permitted assignee bound to this Agreement).

19.2 Entirety.

This Agreement and the appendices and exhibits hereto constitute the entire agreement between the Parties and supersede all prior discussions and agreements between the Parties with respect to the subject matter hereof. There are no prior or contemporaneous agreements or representations affecting the same subject matter other than those herein expressed. Except for any matters which, in accordance with the express provisions of this Agreement, may be resolved by verbal agreement between the Parties, no amendment, modification or change herein shall be enforceable unless reduced to writing and executed by both Parties.

19.3 Non-Waiver.

No waiver by any Party hereto of any one or more defaults by the other Party in the performance of any of the provisions of this Agreement shall be construed as a waiver of any other default or defaults whether of a like kind or different nature. No failure or delay by either Party hereto in exercising any right, power, privilege, or remedy hereunder shall operate as a waiver thereof.

19.4 Severability.

Any provision of this Agreement declared or rendered invalid, unlawful, or unenforceable by any applicable court of law or regulatory agency or deemed unlawful because of a statutory change (individually or collectively, such events referred to as “Regulatory Event”) will not otherwise affect the remaining lawful obligations that arise under this Agreement; and provided, further, that if a Regulatory Event occurs, the Parties shall use their best efforts to reform this Agreement in order to give effect to the original intention of the Parties.

19.5 Survival.

All indemnity and audit rights shall survive the termination of this Agreement. All obligations provided in this Agreement shall remain in effect, after the expiration or termination for any reason of this Agreement, for the purpose of complying herewith.

19.6 Forward Contract.

The Parties acknowledge and agree that this Agreement constitutes a “forward contract” within the meaning of the United States Bankruptcy Code.

19.7 Relationships of Parties.

The Parties shall not be deemed in a relationship of partners or joint venturers by virtue of this Agreement, nor shall either Party be an agent, representative, trustee or fiduciary of the other. Neither Party shall have any authority to bind the other to any agreement. This Agreement is intended to secure and provide for the services of each Party as an independent contractor.

19.8 Headings and Exhibits.

The headings used for the sections and articles herein are for convenience and reference purposes only and shall in no way affect the meaning or interpretation of the provisions of this Agreement. Any and all exhibits and appendices referred to in this Agreement are, by such reference, incorporated herein and made a part hereof for all purposes.

**ARTICLE 20
CONFIDENTIALITY**

Neither Party shall disclose the terms or conditions of this Agreement to a third party (other than the Party's employees, lenders, counsel, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential) except to comply with any applicable law, regulation, or any exchange, Balancing Authority Area or independent system operator rule or in connection with any court or regulatory proceeding; provided, however, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation.

**ARTICLE 21
NOTICES AND COUNTERPARTS**

21.1 Notices.

21.1.1 All notices, requests, statements or payments shall be made to the addresses and persons specified in Exhibit A hereto. All notices, requests, statements or payments shall be made in writing except where this Agreement expressly provides that notice may be made orally. Notices required to be in writing shall be delivered by hand delivery, overnight delivery, facsimile, e-mail (so long as a copy of such e-mail notice is provided immediately thereafter by hand delivery, overnight delivery, or facsimile), or other documentary form. Notice by facsimile shall (where confirmation of successful transmission is received) be deemed to have been received on the day on which it was transmitted (unless transmitted after 5:00 p.m. at the place of receipt or on a day that is not a Business Day, in which case it shall be deemed received on the next Business Day); provided that Scheduling and Dispatch notifications sent by facsimile shall be treated as received when confirmation of successful transmission is received. Notice by hand delivery or overnight delivery shall be deemed to have been received when delivered. Notice by e-mail shall be deemed to have been received when delivered, so long as a

copy of such e-mail notice is provided immediately thereafter by hand delivery, overnight delivery, courier or facsimile. Notice by telephone shall be deemed to have been received at the time the call is received.

21.1.2 A Party may change its address by providing notice of the same in accordance with the provisions of Section 21.1.1.

21.2 Counterparts.

This Agreement may be executed in counterparts, each of which is an original and all of which constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Wholesale Purchase and Sale Agreement for *[insert specific Capacity Exchange Product Name]* Capacity Exchange to be duly executed by their duly authorized representatives. This Agreement shall not become effective as to either Party unless and until executed by both Parties.

**PORTLAND GENERAL ELECTRIC
COMPANY**

[Counterparty]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A:

NOTICES

Party: Portland General Electric Company [Counterparty]
(or "PGE"), an Oregon corporation

All Notices:

Street: 121 SW Salmon Street
City: Portland, OR 97204
Attn: Power Contracts; 3WTCBR06
Phone: (503) 464-_____
Facsimile: (503) 464-2605
Duns: 00-790-9054
Federal Tax ID Number: 93-0256820

Invoices:

Attn: Risk Management
Phone: (503) 464-7375
Facsimile: (503) 464-7126

Scheduling:

Attn: Manager Power Coordination
Phone: (503) 464-7374
Facsimile: (503) 464-2605

Payments:

Attn: Accounts Payable
Phone: (503) 464-7126
Facsimile: (503) 464-2605

Wire Transfer:

BNK: United States National Bank of
Oregon-Portland
ABA: 123000220
ACCT: #153600063512
NAME: Portland General Electric
Company

Credit and Collections:

Attn: Credit Manager
Phone: (503) 464-_____
Facsimile: (503) 464-2605

All Notices:

Street:
City:
Attn:
Phone:
Facsimile:
Duns:
Federal Tax ID Number:

Invoices:

Attn:
Phone:
Facsimile:

Scheduling:

Attn:
Phone:
Facsimile:

Payments:

Attn:
Phone:
Facsimile:

Wire Transfer:

BNK:
ABA:
ACCT:

Credit and Collections:

Attn:
Phone:
Facsimile:

PGE RFP for Capacity Power Supply Resources (Final Draft)

With additional Notices of an Event of
Default to:

Attn: General Counsel
Phone: (503) 464-8850
Facsimile: (503) 464-2200

With additional Notices of an Event of
Default to:

Attn:
Phone:
Facsimile:

APPENDIX H

TOLLING AGREEMENT

Between

Portland General Electric Company

And

[Counterparty]

THIS TOLLING AGREEMENT FOR THE WHOLESALE PURCHASE AND SALE OF POWER (this "Agreement") is entered into and is effective as of the ____ day of ____ 2011 (the "Effective Date") between Portland General Electric Company, an Oregon corporation ("PGE") with offices at 121 SW Salmons Street, Portland, Oregon 97204, and [*Counterparty*], a [*Country/State*] [*corporate structure*] ("Seller") with offices at _____. PGE and Seller are also sometimes referred to herein individually as a "Party" and collectively as the "Parties."

ARTICLE I

DEFINED TERMS

1.1 Definitions. In addition to terms defined elsewhere in this Agreement, the following terms shall have the meanings set forth below:

"Affiliate" means, with respect to a Party, any other Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this purpose, "control" means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power or the ability to direct the affairs of the Person. For the purposes of this Agreement, and except for Article 21, PGE will be deemed to have no Affiliates.

"Agreement" means this Tolling Agreement for Wholesale Power Purchase and Sale entered into between Seller and PGE and all incorporated appendices, exhibits, and attachments hereto, as may be amended by the Parties from time to time.

"Ancillary Services" means all ancillary products associated, in accordance with Prudent Electric Industry Practice, with the generation of electrical energy, including, without limitation, spinning reserves, non-spinning reserves, reactive power and voltage control.

"Availability Guarantee" has the meaning set forth in Section 9.5(a).

"Balancing Authority Area" means an operator of an electric power system or combination of electric power systems that acts to (i) match, at all times, the power output of the electric generators within the electric power system(s) and the capacity and energy purchased from entities outside of the electric power system(s), with the load within the electric power system(s), (ii) maintain scheduled interchange with other control areas, within the limits of Prudent Electric Utility Practice, (iii) maintain the frequency of the electric power system(s) within reasonable limits in accordance with Prudent Electric Utility Practice and (iv) provide sufficient generating capacity to maintain operating reserves in accordance with Prudent Electric Utility Practice.

"Bankrupt" means with respect to a Party or other entity, that such Party or other entity: (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, (ii) has an involuntary petition filed or commenced against it and such petition is not dismissed or stayed within 90 days thereafter, (iii) makes a general assignment or any general arrangement for the benefit of creditors (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets and such appointment continues undischarged or unstayed for a period of 90 days, or (v) is generally unable to pay its debts as they become due.

"BPA" means Bonneville Power Administration, or its successor.

"BPA Operating Reserves Factor" means the aggregate of the minimum Billing Factor for Spinning Reserve Service and the minimum Billing Factor for Supplemental Reserve Service, in each case for non-hydroelectric generation dedicated to the Transmission Customer's firm load responsibility, and in each case as set forth in BPA's Transmission and Ancillary Service Rate Schedules as in effect on the applicable date. As of the Effective Date, the BPA Operating Reserves Factor is 7 percent (i.e., the sum of (1) a 3.5 percent Billing Factor for Spinning Reserve Service and (2) a 3.5 percent Billing Factor for Supplemental Reserve Service).

"Btu" means British thermal unit.

"Business Day" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party's principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party by whom the notice or payment or delivery is to be received.

"Capacity Availability" means the percentage of total capability of the Contract Capacity available to PGE at any one time during the Term.

"Capacity Charge" means the amount to be paid by PGE to Seller each Month during the Delivery Term in consideration for PGE's right to the Contract Capacity from the Facility in accordance with this Agreement, as is further set forth in Section 9.1.

"Claiming Party" has the meaning set forth in Section 10.1(b).

"Claims" has the meaning set forth in Article 23.

"Cold Start" means a start-up of the Facility after the Facility has been physically off-line for a period in excess of forty (40) hours.

"Contract Capacity" has the meaning set forth in Section 3.1(b).

"Contract Price" means the price payable by PGE to Seller, in U.S. Dollars, for the Contract Capacity made available and/or the Energy delivered by Seller under this Agreement.

"Contract Year" means the period between the Effective Date and the first anniversary of the Effective Date, and every anniversary of the Effective Date thereafter.

"Costs" means, with respect to PGE or Seller, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such Party in entering into new arrangements which replace this Agreement and all reasonable attorneys' fees and expenses incurred by a Party in connection with enforcing its rights under this Agreement. Costs shall not include any expenses incurred by such Party in either entering or terminating any arrangement pursuant to which it has hedged its obligations.

"Credit Rating" means (i) with respect to any entity other than a financial institution, the current (a) ratings issued or maintained by S&P or Moody's with respect to such entity's long-term senior, unsecured, unsubordinated debt obligations (not supported by third party credit enhancements) or (b) corporate credit rating or long-term issuer rating issued or maintained with respect to such entity by S&P or Moody's, or (ii) if such entity is a financial institution, the

ratings issued or maintained by S&P or Moody's with respect to such entity's long-term, unsecured, unsubordinated deposits.

"Cross Default Amount" means with respect to Seller or its Guarantor, if applicable, \$_____ in U.S Dollars ("USD") (or its equivalent in another currency), and with respect to PGE \$_____ in U.S Dollars ("USD").

"Daily Gas Surplus Quantity" means, with respect to any day, a quantity of natural gas (in MMBtu) determined as the positive result, if any, of the following formula:

$$\text{DGSQ} = \text{TF} - (\text{DE} \times \text{HR})$$

Where:

DGSQ = The Daily Gas Surplus Quantity for such day (in MMBtu)

TF = The total quantity of Fuel (in MMBtu) delivered by PGE on such day, or deemed to have been delivered, pursuant to Section 7.5

DE = The total quantity of Scheduled Energy actually delivered by Seller to PGE on such day (in MWh)

HR = The weighted average (in MMBtu/MWh) of the Guaranteed Net Heat Rate for all such Scheduled Energy

"Deadband" means a Spark Spread within the range of USD $-\$$ ____/MWh (inclusive) to USD $+\$$ ____/MWh (inclusive).

"Deadband Period" means the period between [0605 and 0615 PPT] on any Preschedule Day on which the Spark Spread is within the Deadband and has been calculated, in accordance with the provisions of Section 6.2, by application of a _____ [Name] Gas Price and [Hub Name] Energy Price as determined on the basis of data [posted on ICE at 0605 PPT] on such day.

"Dedicated Capacity" has the meaning set forth in Section 7.4(a).

"Defaulting Party" has the meaning set forth in Section 11.1.

"Delivery Term" means, starting on _____, the months of _____ [months] of each year for the Term.

"Design Capacity" has the meaning set forth in Section 3.2(a).

"Determination Period" means each calendar month during the term of this Agreement; provided that if the remaining term of this Agreement is less than one calendar month, the Determination Period shall be the remaining term of this Agreement.

"Dispatch," "Dispatched" or "Dispatching" means the acts of Seller, pursuant to any Schedule established in accordance with the terms and conditions of this Agreement, in arranging for operation of the Facility at a capacity level which is intended to enable the Scheduled Energy to be delivered and the Contract Capacity to be made available.

"Early Termination Date" has the meaning set forth in Section 11.2(a).

"Effective Date" has the meaning set forth in the first paragraph of this Agreement.

"Energy" means the electric energy to be delivered by Seller to PGE pursuant to this Agreement as three-phase, alternating 60 Hertz current at the nominal voltage at the Energy Delivery Point.

"Energy Delivery Point" means the primary point of interconnection between the Facility and PGE's System, or as applicable, BPA's Network or an alternate point of delivery, as may be mutually agreed by the Parties.

"Energy Imbalance Charges" means any energy imbalance fees, penalties or other similar fees, costs or penalties (but not including Generation Imbalance Charges) imposed by any Transmission Provider.

"Equitable Defenses" means any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending.

"Event of Default" has the meaning set forth in Section 11.1.

"Exchange" means the exchange or principal trading market specified in this Agreement.

"Facility" means the natural gas-fueled electric generating plant of approximately ___ megawatts of electric generating capacity located near [CITY, STATE] and owned and operated by Seller.

"FERC" means the Federal Energy Regulatory Commission, or any successor government agency.

"Firm" means the only excuse for the interruption of delivery of the Product is if the interruption is excused by Force Majeure.

"Floating Price" means the price specified in this Agreement that is based upon a Price Source.

"Force Majeure" means an event or circumstance as defined in Section 10.1.

"Forced Derate" means a reduction in the delivery of, or in the ability to deliver Energy that is not the result of a Scheduled Outage.

"Forced Derate Factor" is an amount equal to the lesser of (i) 1 or (ii) the ratio of (a) the amount of capacity of the Facility available to PGE during a period of a Forced Derate to (b) the Contract Capacity, all as measured in accordance with Prudent Electric Industry Practice.

"Forced Outage" means a cessation in the delivery of, or in the ability to deliver, Energy that is not the result of a Scheduled Outage.

"Forecast Maintenance Schedule" has the meaning set forth in Section 4.2(c).

"Fuel" means any quantity of natural gas delivered by PGE to the Fuel Receipt Point under this Agreement.

"Fuel Delivery Point" means the interconnection between the _____ [Name] Pipeline and the [Name] meter station at the Facility. *[The Fuel Delivery Point may be the same as the Fuel Receipt Point.]*

"Fuel Nominating Agent" has the meaning set forth in Section 7.4(c). – *Defined term to be used if the Fuel Receipt Point differs from the Fuel Delivery Point.*

"Fuel Receipt Point" means _____. – *Defined term to be used if the Fuel Receipt Point differs from the Fuel Delivery Point.*

"Gains" means, with respect to a Party, an amount equal to the Present Value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of its obligations with respect to this Agreement determined in a commercially reasonable manner.

"Gas Day" means the twenty-four hour period from 0700 PPT to 0700 PPT.

"Gas Imbalance Charges" means any pipeline scheduling, imbalance, cashout, OFO or other similar pipeline penalties or charges resulting from failure to timely communicate to the pipeline nominations or nomination changes, or failure to timely adjust nominations.

"Gas Index Price" means, with respect to any Gas Day, an amount (in USD/MMBtu) equal to the midpoint price reported for such Gas Day (where such Gas Day is the "flow date") in Platt's Gas Daily in the table headed "Daily Price Survey" for the "[Name]."

"Gas Turbine" means the _____ frame ____ combined cycle, gas fuel combustion turbine-generator and associated auxiliary equipment located at the Facility.

"Gas Use Tax Rate" means the percentage rate of the [Name] State gas use tax, if any, as in effect with respect to the Facility from time to time and at any time during the Term. As of the Effective Date, the Gas Use Tax Rate is _____ percent.

"Generation Imbalance Charges" means any fees, charges, assessments, penalties or other costs or expenses imposed by any Balancing Authority Area for or in connection with generation imbalance service for the Facility.

"Governmental Authority" means any national, state, provincial or local government, any political subdivision thereof or any other governmental, regulatory, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law; provided, however, that "Governmental Authority" shall not in any event include either Party.

"Governmental Charges" means any charges or costs that are assessed or levied by any entity, including local, state or federal regulatory or taxing authorities or any Transmission Provider, that would affect sale and purchase of a Product contemplated by this Agreement, either directly or indirectly.

"Gross Fuel Quantity" means, with respect to any Gas Day, a quantity of natural gas (in MMBtu) equal to [the Net Fuel Quantity (*in the event the Fuel Receipt Point differs from the Fuel*

Delivery Point)] [the sum of (i) the Net Fuel Quantity for such Gas Day, and (ii) the product of (A) the Net Fuel Quantity for such Gas Day, and (B) the _____ [*Name*] Pipeline Fuel Use Factor (*in the event the Fuel Receipt Point differs from the Fuel Delivery Point.*)].

"Guaranteed Net Heat Rate" has the meaning set forth in Section 3.2(b).

"Guarantor" means a Person guaranteeing under a Guaranty the performance of each and all of the obligations of a Party under this Agreement. Seller's Guarantor is _____.

"Guaranty" means an instrument or agreement pursuant to which Guarantor guarantees the performance of each and all of the obligations of a Party, which instrument or agreement is reasonably acceptable in form and substance to the other Party.

"Guaranty Default" means with respect to a Guaranty or the Guarantor thereunder, the occurrence of any of the following events: (i) any representation or warranty made or deemed to be made or repeated by such Guarantor in connection with such Guaranty shall be false or misleading in any material respect when made or when deemed made or repeated; (ii) such Guarantor fails to pay, when due, any amount required pursuant to such Guaranty; (iii) the failure of such Guarantor to comply with or timely perform any other material covenant or obligation set forth in such Guaranty if such failure is not capable of remedy or shall not be remedied in accordance with the terms and conditions of such Guaranty; (iv) a Merger Event occurs with respect to such Guarantor; (v) such Guaranty shall expire or terminate, or shall fail or cease to be in full force and effect and enforceable in accordance with its terms against such Guarantor, prior to the satisfaction of all obligations of such Party under this Agreement, in any such case without replacement within two (2) Business Days of such expiration, termination, failure or cessation ; (vi) such Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of, its Guaranty; (vii) such Guarantor becomes Bankrupt; or (viii) the Credit Rating of the Guarantor is less than BBB by S&P or Baa3 by Moody's; provided, however, that no Guaranty Default shall occur or be continuing in any event with respect to a Guaranty after the time such Guaranty is required to be canceled or returned to a Party in accordance with the terms of this Agreement.

"HE" means hour ending.

"HHV" means higher heating value.

"Hot Start" means a start-up of the Facility after the Facility has been physically off-line for a period less than four (4) hours.

"[Hub Name] Energy Price" means, for any Preschedule Day or Preschedule Days, the weighted average of (1) the arithmetic mean of the current on-screen highest bid price and lowest offer price, expressed in USD/MWh, for Electricity Firm-LD Peak Physical FP-Hub [*Hub Name*] (Next Day), in each case as posted by ICE at 0605 PPT on such day, and (2) the arithmetic mean of the current on-screen highest bid price and lowest offer price, expressed in USD/MWh, for Electricity Firm-LD Off-Peak Physical FP-Hub [*Hub Name*] (Next Day), in each case as posted by ICE at 0605 PPT on such day. Electricity Firm-LD Peak Physical FP-Hub [*Hub Name*] (Next Day) bid and offer prices and Electricity Firm-LD Off-Peak Physical FP-Hub [*Hub Name*] (Next Day) bid and offer prices for each day shall be weighted according to the number of On-Peak Hours and Off-Peak Hours in such day.

"[Hub Name] Gas Price" means, for any Preschedule Day or Preschedule Days, the arithmetic mean of the current on-screen highest bid price and lowest ask price, expressed in USD/MMBtu, for Next Day Natural Gas Firm Physical (FP)-[Hub Name], in each case as posted by ICE at 0605 PPT on such day.

"ICE" means the Intercontinental Exchange.

"Indemnitee" has the meaning set forth in Section 19.2.

"Indemnitor" has the meaning set forth in Section 19.2.

"Indemnity Claims" means all third party claims or actions, threatened or filed and whether groundless, false, fraudulent or otherwise, together with any resulting losses, damages, costs, expenses and attorneys' fees, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.

"Interest Rate" The "Interest Rate" will be the lesser of (i) the maximum amount allowed by applicable law or (ii) the Federal Funds Rate for the holding period plus 200 basis points (2.00). "Federal Funds Rate" means the effective Federal Funds Rate as published daily by the Federal Reserve Bank H.15 Statistical Release website for each day of the holding period. Such interest shall be calculated on the basis of the actual number of days elapsed over a year of 360 days.

"kV" means kilovolt.

"kW" means kilowatt.

"kWh" means kilowatt-hour.

"Law" means any law, rule, regulation, order, writ, judgment, rulings or orders by or before any court or any governmental authority.

"Letter(s) of Credit" means one or more irrevocable, transferable, standby letters of credit issued by a major U.S. commercial bank or a U.S. branch office of a major foreign commercial bank with such bank having shareholders' equity of at least \$10 billion (U.S. \$) and a Credit Rating of at least A1 from Moody's or A+ from S&P, in a form and substance reasonably acceptable to the beneficiary Party. The costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.

"Letter of Credit Default" means with respect to a Letter of Credit issued on behalf of a Party, the occurrence of any of the following events: (i) the issuer of such Letter of Credit shall fail to be a major U.S. commercial bank or a U.S. branch office of a major foreign commercial bank with such bank having shareholders' equity of at least \$10 billion (U.S. \$) and a Credit Rating of at least A1 from Moody's or A+ from S&P; (ii) the issuer of the Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit; (iii) the issuer of such Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit; (iv) the issuer of such Letter of Credit shall fail to honor a properly documented request to draw on the Letter of Credit; (v) such Letter of Credit shall terminate, or shall fail or cease to be in full force and effect at any time during the Term, in any such case without replacement within two (2) Business Days of such termination, failure or cessation; or there shall be fewer than twenty (20) Business Days left before the expiration of

such Letter of Credit, (vi) the issuer of such Letter of Credit shall become Bankrupt; or (vii) a Merger Event occurs with respect to the issuer of such Letter of Credit; provided, however, that no Letter of Credit Default shall occur or be continuing in any event with respect to a Letter of Credit after the time such Letter of Credit is required to be canceled or returned to a Party in accordance with the terms of this Agreement.

"Losses" means, with respect to a Party, an amount equal to the Present Value of the economic loss to it, if any (exclusive of Costs), resulting from termination of its obligations with respect to this Agreement determined in a commercially reasonable manner.

"Market Disruption Event" means, with respect to any Price Source, any of the following events (the existence of which shall be determined in good faith by PGE): (a) the failure of the Price Source to report, publish or announce information necessary for determining the Floating Price; (b) the failure of trading to commence or the permanent discontinuation or material suspension of trading in the relevant options contract or commodity on the Exchange or in the market specified for determining the Floating Price; (c) the temporary or permanent discontinuance or unavailability of the Price Source; (d) the temporary or permanent closing of any exchange specified for determining a Floating Price; or (e) a material change in the formula for or the method of determining the Floating Price.

"Material Adverse Change" means (i) with respect to PGE, PGE shall have a Credit Rating below BBB- by S&P and below Baa3 by Moody's or both ratings are withdrawn or terminated on a voluntary basis by the rating agencies, (ii) with respect to Seller, Seller or Seller's Guarantor, if applicable, shall have a Credit Rating below BBB- by S&P or below Baa3 by Moody's or both ratings are withdrawn or terminated on a voluntary basis by the rating agencies.

"Merger Event" means, with respect to a Party or other entity, that such Party or other entity consolidates or amalgamates with, or merges into or with, or transfers all or substantially all of its assets to another entity, and (i) the resulting, surviving or transferee entity fails, at the time of such consolidation, amalgamation, merger or transfer, to assume each and all of the obligations of such Party or other entity hereunder or under any Guaranty or Letter of Credit or other performance assurance, either by operation of law or pursuant to an agreement reasonably satisfactory to the other Party, or (ii) the benefits of any Guaranty, Letter of Credit, or other performance assurance or credit support provided pursuant to this Agreement fail, at any time following such consolidation, amalgamation, merger or transfer, to extend to the performance by such Party or such resulting, surviving or transferee entity of its obligations hereunder, or (iii) the Credit Rating (from either of S&P or Moody's) of the resulting, surviving or transferee entity is less than that of such Party or other entity immediately prior to such consolidation, amalgamation, merger, or transfer.

"Mill Rate" means the then effective rate charged by BPA, under its applicable Ancillary Service Rate Schedules, for Operating Reserves—the average of (Spinning Reserve Service and Operating Reserves)—Supplemental Reserves Service, expressed in USD/kWh.

"MMBtu" means one million Btus.

"Month" means a calendar month commencing at HE 0100 PPT on the first day of such Month through HE 2400 PPT on the last day of such Month.

"Moody's" means Moody's Investors Services, Inc. or its successor.

"MW" means a megawatt. One MW is equal to 1,000 kW.

"MWh" means a megawatt-hour. One MWh is equal to 1,000 kWh.

"NERC" means the North American Electric Reliability Council, or its successor.

"Net Fuel Quantity" means, with respect to any Gas Day, a quantity of natural gas (in MMBtu) determined by the following formula:

$$\text{NFQ} = \text{SE} \times \text{SHR}$$

Where:

SE = The total quantity (in MWh) of Scheduled Energy scheduled to be delivered by Seller to PGE on such Gas Day

SHR = The weighted average (in MMBtu/MWh) of the Guaranteed Net Heat Rate for all such Scheduled Energy

"Non-Defaulting Party" has the meaning set forth in Section 11.2(a).

"Normal Dispatch Status" means that the Facility Dispatch status will be (a) "on" on any day with respect to which the Spark Spread as determined in accordance with the terms of this Agreement, on the applicable Preschedule Day is positive and (b) "off" on any day with respect to which the Spark Spread as determined in accordance with the terms of this Agreement, on the applicable Preschedule Day is negative; provided, however, that (x) in the event that on any Preschedule Day the Facility's Dispatch status at 0605 PPT is "on, " and the Spark Spread is positive but within the Deadband, then the Normal Dispatch Status of the Facility will be "on" only in the event that the Spark Spread is greater than USD +\$____/MWh, and (y) in the event that on any Preschedule Day the Facility's Dispatch status at 0605 PPT is "off, " and the Spark Spread is negative but within the Deadband, then the Normal Dispatch Status of the Facility will be "off" only in the event that the Spark Spread is less than USD -\$____/MWh.

"[Name] Pipeline" means (i) [Name] Pipeline Corporation, a [State] corporation, or its successor, or (ii) any other natural gas transporter on which the Parties may mutually agree for delivery of natural gas to the Facility – *Defined term to be used in the event the Fuel Delivery Point is not located at the Facility.*]

"[Name] Pipeline Fuel Use Factor" means the percentage fuel use factor set forth in the [Name] Pipeline Tariff Statement of Fuel Use Requirements Factors for Reimbursement of Fuel Use, for Rate Schedule TF-1. As of the Effective Date, the [Name] Pipeline Fuel Use Factor is ____ percent – *Defined term to be used in the event the Fuel Delivery Point is not located at the Facility.*]

"[Name] Pipeline Tariff" means, at any time, the then current [Name] Pipeline FERC Gas Tariff – *Defined term to be used in the event the Fuel Delivery Point is not located at the Facility.*]

"[Name] Pipeline Volumetric Charge" means the applicable [Name] Pipeline Volumetric Charge calculated in accordance with the provisions of Section ____ of [Name] Pipeline Tariff

Rate Schedule TF-1 as expressed in USD/MMBtu – *Defined term to be used in the event the Fuel Delivery Point is not located at the Facility.*]

"Off-Peak Hours" means all hours other than On-Peak Hours.

"On-Peak Hours" are HE 07:00:00 through 22:00:00 PPT, Monday through Saturday, excluding NERC designated holidays (as such hours may be amended or modified by NERC from time to time during the Delivery Term).

"OFO" means an operational flow order issued by [*Name*] Pipeline, in its discretion, for the purposes of creating natural gas pipeline displacement capacity.

"Pacific Prevailing Time" or "PPT" means the prevailing time (i.e., Standard Time or Daylight Savings Time) on any given day in the Pacific Time Zone.

"Party" and "Parties" have the meanings set forth in the first paragraph of this Agreement.

"Performance Assurance" means collateral in the form of cash, Letter(s) of Credit, or other security in form and amount acceptable to the Non-Defaulting Party.

"Person" means an individual, partnership, corporation, limited liability company, joint venture, association, trust, unincorporated organization, Governmental Authority, or other form of entity.

"PGE" means Portland General Electric Company.

"PGE's Gas Surplus Account" means the sum of all Daily Gas Surplus Quantities less the sum of all Daily Gas Surplus Reductions elected by PGE pursuant to Section 7.5(d).

"Preschedule," "Prescheduled" or "Prescheduling" means the act of PGE or its designated representatives, including its Transmission Providers, if applicable, notifying, requesting and confirming to Seller the quantity of Energy to be delivered hourly during a given day at the Energy Delivery Point on a day-ahead preschedule basis in accordance with the terms of this Agreement.

"Preschedule Day" means any day on which PGE, or its Scheduling Agent, must submit a final hourly preschedule for the next day or days, in accordance with the WECC Preschedule Calendar and consistent with posted Business Practices for all Transmission Providers in the scheduled physical path.

"Present Value" means a present value calculation derived by using a commercially reasonable discount rate for each remaining Month of the Term.

"Price Source" means ICE (or such other origin of reference, including an Exchange, recognized and independent brokers or dealers active in the [*Name*] Next Day physical gas market or the [*Hub Name*] Next Day physical power market, as applicable) containing (or reporting) the specified price (or prices from which the specified price is calculated) set forth in this Agreement.

"Product" means electric capacity, Energy, Ancillary Services or other product(s) related thereto as specified in this Agreement.

"Prudent Electric Industry Practice" means those practices, methods, standards and acts engaged in or approved by a significant portion of the electric power generation industry in the Western Interconnection that at the relevant time period, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts reflect due regard for operation and maintenance standards recommended by the Facility's equipment suppliers and manufacturers, operational limits, and all applicable laws and regulations. Prudent Electric Industry Practice is not intended to be limited to the optimum practice, method, standard or act to the exclusion of all others, but rather to those practices, methods and acts generally acceptable or approved by a significant portion of the electric power generation industry in the relevant region, during the relevant period, as described in the immediately preceding sentence.

"Replacement Energy" has the meaning set forth in Section 6.11.

"Replacement Price" is described in Section 12.1(c).

"Rounding Amount" means \$250,000 in U.S. Dollars (or its equivalent in another currency).

"S&P" means the Standard & Poor's, a division of The McGraw-Hill Companies, Inc., or any successor thereto.

"Sales Price" is defined in Section 12.2 (b).

"Schedule," "Scheduled" or "Scheduling" means the act of PGE or its designated representatives, including its Transmission Providers, if applicable, notifying, requesting and confirming to Seller, on a Preschedule, hourly Schedule or real-time Schedule basis, the quantity of Energy to be delivered hourly on any given day or days during the Delivery Term to and at and from the Energy Delivery Point according to customary WECC scheduling practices.

"Scheduled Energy" has the meaning set forth in Section 3.1(a).

"Scheduled Outages" has the meaning set forth in Section 4.2(a).

"Seller" has the meaning set forth in the first paragraph of this Agreement.

"Seller's Collateral Threshold" means \$ _____ in U.S. Dollars (or its equivalent in another currency), provided, however, that Seller's Collateral Threshold shall be zero (\$0) upon the occurrence and during the continuance of an Event of Default, or Material Adverse Change with respect to Seller.

"Settlement Amount" means, with respect to this Agreement and the Non-Defaulting Party, the Losses or Gains, and Costs, expressed in U.S. Dollars, which such Party incurs as a result of the liquidation pursuant to Article 11.

"[Name] Substation" means *[Name]* Substation.

"Spark Spread" means, for any day, an amount (whether positive or negative), in USD/MWh, equal to (1) the *[Hub Name]* Energy Price for such day less (2) the product of (a) ____

MMBtu per MWh (HHV) and (b) the [Name] Gas Price for such day less (3) the sum of (a) USD \$____/MWh (i.e., the Variable O&M Price), (b) the product of (i) the then-applicable BPA Operating Reserves Factor and the Mill Rate, (c) the product of (i) ____ MMBtu per MWh (HHV) and (ii) the then-applicable [Name] Pipeline Volumetric Charge, (d) the product of (i) ____ MMBtu per MWh (HHV), (ii) the then-applicable [Name] Pipeline Fuel Use Factor and (iii) the [Name] Gas Price for such day, and (e) the product of (i) ____ MMBtu per MWh (HHV), (ii) the then-applicable Gas Use Tax Rate and (iii) the [Name] Gas Price for such day. For purposes of calculating the Spark Spread for any day that is a Sunday or NERC holiday, the applicable [Name] Gas Price and [Hub Name] Energy Price shall be the [Name] Gas Price and [Hub Name] Energy Price for the last day on which such price was posted prior to such Sunday or NERC holiday. A sample Spark Spread calculation is set forth in Exhibit C. [This formula may be modified to reflect the actual fuel transportation arrangements and any other charges that may be specific to the location of the Facility.]

"Standard Capacity Charge" has the meaning set forth in Section 9.1.

"Start-Up Charge" means the amount to be paid by PGE to Seller each Month for Successful Start-Ups of the Gas Turbine, pursuant to the terms of Section 9.4.

"Successful Start-Up" means causing the Gas Turbine to achieve electrical synchronization with the Transmission System(s) of the Transmission Provider(s) at full Dispatched load (taking into consideration ambient conditions at the time of the start); provided, however, that there may be no more than one Successful Start-Up on any given day.

"Term" has the meaning set forth in Section 2.1.

"Termination Payment" shall have the meaning set forth in Section 11.3.

"TILs" means the Gas Turbine manufacturer's technical information letters.

"Trading Day" means a day in respect of which the relevant Price Source reported, published or announced the Floating Price.

"Transmission Provider(s)" means BPA or any other Person (including any FERC-authorized regional transmission organization) transmitting Energy on behalf of Seller to the Energy Delivery Point or on behalf of PGE at and from the Energy Delivery Point.

"Transmission Services" means any and all services (including but not limited to Ancillary Services and Balancing Authority Area services) required for the transmission and delivery of Energy to the Energy Delivery Point or at and from the Energy Delivery Point.

"Transmission System(s)" means the transmission system(s) of the Transmission Provider(s) to be used by Seller for the purpose of transmitting Energy to the Energy Delivery Point or by PGE for the purpose of transmitting Energy at and from the Energy Delivery Point.

"Transportation Charges" means Transportation Fixed Charges and Transportation Variable Charges.

"Transportation Fixed Charges" means, with respect to any day, any and all actual and verifiable demand charges payable by Seller to [Name] Pipeline (not, however, exceeding 100 percent of the then effective [Name] Pipeline Schedule – demand rate) for such day, pursuant to

Rate Schedule ____ with respect to the Dedicated Capacity – *Defined term to be used in the event the Fuel Receipt Point differs from the Fuel Delivery Point.*]

["Transportation Variable Charges" means, with respect to the transportation or delivery to the Fuel Delivery Point of Fuel used to produce Scheduled Energy and all fuel -in -kind associated with such Fuel, (i) the then effective [Name] Pipeline commodity, GRI and ACA volumetric rates and volumetric rate for large customers for the firm transportation capacity applicable to such Fuel, plus (ii) all actual and verifiable costs, rates and charges payable by Seller to any Governmental Authority with respect to such Fuel – *Defined term to be used in the event the Fuel Receipt Point differs from the Fuel Delivery Point.*]

"Transporter" means all natural gas gathering or pipeline companies, or local distribution companies, acting in the capacity of a transporter, transporting Fuel for PGE or Seller upstream or downstream, respectively, of the Fuel Receipt Point.

"USD" means United States Dollars.

"Variable Energy Charge" has the meaning set forth in Section 9.3(b).

"Variable O&M Charge" means the amount to be paid by PGE to Seller for the MWh of Energy delivered by Seller to PGE in any Month, as is further set forth in Section 9.2.

"Variable O&M Price" has the meaning set forth in Section 9.2.

"Warm Start" means a start-up of the Facility after the Facility has been physically off-line for a period greater than four (4) and equal to or less than forty (40) hours.

"WECC" means the Western Electricity Coordinating Council, or its successor.

1.2 Interpretation. Unless the context otherwise requires:

(a) Words singular and plural in number shall be deemed to include the other and pronouns having masculine or feminine gender shall be deemed to include the other.

(b) Subject to Section 21.1, any reference in this Agreement to any Person includes its successors and permitted assigns and, in the case of any Governmental Authority, any Person succeeding to its functions and capacities.

(c) Any reference in this Agreement to any Section, Exhibit or Appendix means and refers to the Section contained in, or Exhibit or Appendix attached to, this Agreement.

(d) Other grammatical forms of defined words or phrases have corresponding meanings.

(e) A reference to writing includes typewriting, printing, lithography, electronic, photography and any other mode of representing or reproducing words, figures or symbols in a lasting and visible form.

(f) Unless otherwise expressly provided in this Agreement, a reference to a specific time for the performance of an obligation is a reference to that time in the place where that obligation is to be performed.

(g) Unless otherwise expressly provided in this Agreement, a reference to a document or agreement, including this Agreement, includes a reference to that document or agreement as modified, amended, supplemented or restated from time to time.

(h) References in this Agreement to "or" shall be deemed to be disjunctive but not necessarily exclusive (i.e., unless the context dictates otherwise, "or" shall be interpreted to mean "and/or" rather than "either/or").

(i) If any payment, act, matter or thing hereunder would occur on a day that is not a Business Day, then such payment, act, matter or thing shall, unless otherwise expressly provided for herein, occur on the next Business Day.

1.3 Technical Meanings. Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used herein in accordance with such recognized meanings.

ARTICLE II

TERM

2.1 Term.

(a) The term of this Agreement (the "Term") shall begin on the Effective Date and, unless earlier terminated in accordance with the terms and conditions of this Agreement, shall continue through [DATE]; provided, however, that such termination shall not affect or excuse the performance of either Party under any provision of this Agreement that by its terms survives any such termination and, provided further, that this Agreement and any other documents executed and delivered hereunder shall remain in effect until both Parties have fulfilled all of their obligations with respect to this Agreement under Article 12 hereof.

(b) The Delivery Term shall terminate effective immediately upon termination of the Term for any reason. No interruption or curtailment of purchases or sales, whether due to Scheduled Outage, Forced Outage, Forced Derate, Force Majeure or otherwise, shall operate to extend the Delivery Term.

ARTICLE III

PURCHASE AND SALE OF ENERGY AND CAPACITY

3.1 Purchase and Sale of Energy and Capacity.

(a) On the terms and subject to the conditions of this Agreement, during any hour of the Delivery Term, Seller shall sell and deliver to PGE, and PGE shall purchase and receive from Seller, an amount of Energy (the "Scheduled Energy") at the Energy Delivery Point, as Scheduled in accordance with the terms and conditions of this Agreement, up to and including the amount of ____ MWh.

(b) On the terms and subject to the conditions of this Agreement, during each hour of the Delivery Term, Seller shall sell and make available to PGE, and PGE shall purchase and accept from Seller, an amount of electric generating capacity from the Facility equal

to ___ MW (the "Contract Capacity"). The amount of Contract Capacity shall not be adjusted for ambient conditions.

(c) PGE shall have the right, in conformance with the Scheduling requirements and other terms of this Agreement, to receive and sell (or reserve for its own use), at no additional cost, Ancillary Services from the Facility associated with the Contract Capacity.

3.2 Design Capacity and Guaranteed Net Heat Rate.

(a) Design Capacity. The design capacity of the Facility for purposes of this Agreement is _____ MW (the "Design Capacity").

(b) Guaranteed Net Heat Rate. The guaranteed net heat rate under this Agreement is the applicable heat rate set forth in Exhibit B, Table B1 (the "Guaranteed Net Heat Rate").

ARTICLE IV

OPERATION AND MAINTENANCE

4.1 Operation and Maintenance. Seller shall operate and maintain the Facility in good operating condition, consistent with Prudent Electric Industry Practice.

4.2 Scheduled Outages.

(a) Seller's Obligations Subject to Scheduled Outages. Seller's obligation to deliver Energy and make available Contract Capacity pursuant to this Agreement shall be subject to planned outages necessary for maintenance procedures in accordance with the provisions of this Section 4.2 and Exhibit A ("Scheduled Outages"). PGE and Seller shall plan and coordinate Scheduled Outages as described in this Agreement, however, in no event shall Seller schedule maintenance for more than four percent (4%) of the Facility's total capacity at any one time during any Contract Year or during the Months of November, December, January, and February or July, August and September.

(b) Maintenance Procedures. The principal maintenance procedures for the Facility, along with the intervals between performance of specific maintenance procedures and the associated outage time, are set forth in the Maintenance Procedures Table set forth in Exhibit A.

(c) Forecast Maintenance Schedule. No later than the Effective Date and each three Month period thereafter, Seller shall provide to PGE a schedule of all Scheduled Outages for the next two years (each such schedule, a "Forecast Maintenance Schedule"). Seller shall establish each Forecast Maintenance Schedule with due regard for the following principles: (i) the Forecast Maintenance Schedule shall be consistent with the manufacturer's recommended procedures, Prudent Electric Industry Practice, and the long-term service agreement for the Gas Turbine; (ii) the Forecast Maintenance Schedule shall not exceed the per item outage times and intervals indicated in the Maintenance Procedures Table set forth in Exhibit A; and (iii) Seller shall use commercially reasonable efforts to schedule major Scheduled Outages as reasonably requested by PGE .

(d) Scheduled Outage Requirements. All Scheduled Outages shall be classified in accordance with the provisions of Exhibit A, and any Scheduled Outage hours in excess of the per item periods shown in the Maintenance Procedures Tables in Exhibit A shall be considered Forced Outage hours for the purpose of calculating availability-based compensation pursuant to Section 9.1.

(e) Scheduled Outage Notice Requirements. Seller shall provide PGE notice of any Scheduled Outage scheduled to occur pursuant to the Forecast Maintenance Schedule at least three (3) Business Days prior to the deadline set forth in Section 6.6 for PGE's submission to Seller of the Preschedule for the period in which such Scheduled Outage is to commence. Any outages occurring without such notice shall be considered Forced Outage hours.

(f) Adjustments to Forecast Maintenance Schedules. On or before the 5th day of every Month, Seller shall provide a written update to any Forecast Maintenance Schedule for the next whole Month and for the next two years following the current Month if such change represents a revision to the Forecast Maintenance Schedule. PGE may, at any time within a period of ten (10) days after receipt of any such update to the Forecast Maintenance Schedule, request that Seller consider reasonable revisions to the Forecast Maintenance Schedule. Seller will attempt to accommodate such revisions to the extent reasonably practicable. If Seller rejects any PGE revisions to the Forecast Maintenance Schedule, Seller shall provide written explanation indicating why such revisions were not accepted, and if PGE disagrees with Seller's explanation the Parties shall submit the dispute to arbitration as provided in Article 23 below.

4.3 Forced Outages and Forced Derates.

(a) Seller shall give prompt notice to PGE of any Forced Outage or Forced Derate. If notice of the Forced Outage or Forced Derate is provided orally, such notice shall be followed promptly by written notice in accordance with the requirements of this Agreement. Seller shall use commercially reasonable efforts to promptly remove or mitigate the Forced Outage or Forced Derate.

(b) PGE's payment obligation with respect to Capacity Charges shall be reduced in the event of any Forced Outage or Forced Derate, in accordance with the provisions of Section 9.5(b), unless Seller provides PGE with Replacement Energy. For purposes of calculating the availability of the Facility, any period of Forced Derate or Forced Outage will be treated as ending at the end of the hour in which Seller resumes or is able to resume deliveries of Energy.

(c) As soon as practicable, but in any event not later than twenty-four (24) hours after the beginning of a Forced Outage or Forced Derate, Seller shall notify PGE of:

(i) The cause (or if not known, Seller's best estimate thereof) of the Forced Outage or Forced Derate:

(ii) The proposed corrective action;

(iii) Seller's best estimate of the expected duration of the Forced Outage or Forced Derate; and

(iv) Seller's election regarding Replacement Energy.

(d) In the event of a Forced Outage or Forced Derate, if Seller does not choose to provide Replacement Energy, Seller shall curtail the amount of Energy produced at the Facility between PGE and the other purchasers, with contracts in place on the Effective Date, of Energy at the Facility, if any, on a pro rata basis determined on the basis of PGE's Contract Capacity to the total capacity of the Facility or provide PGE with all the Energy produced by the Facility if there are no other such purchasers.

ARTICLE V

METERING

5.1 Energy Metering Equipment.

(a) Seller shall cause the Transmission Provider to own, operate and maintain all electricity metering equipment at the Energy Delivery Point. In addition, Seller shall own, operate and maintain backup electricity metering equipment at the Energy Delivery Point. Seller shall inspect, test, and calibrate all such metering equipment (or in the case of any metering equipment owned by the Transmission Provider, shall cause the Transmission Provider to inspect, test, and calibrate such metering equipment) on a basis consistent with the metering equipment inspection, testing and calibration protocols of the Transmission Provider. Seller shall give PGE reasonable prior notice of the date of such inspections, tests and calibrations, and shall permit a representative of PGE to witness and verify such inspections, tests, and calibrations.

(b) The Transmission Provider's metering equipment shall be used for purposes of calculating the amount of Scheduled Energy delivered to the Energy Delivery Point. In the event of any failure of any of the Transmission Provider's metering equipment, the Parties shall, until such time as the Transmission Provider's equipment has been repaired or replaced, rely upon information provided by Seller's metering equipment for purposes of calculating payments due under or in connection with this Agreement.

5.2 Energy Meter Testing. Seller shall provide to PGE copies of all meter calibration test results. If any test of the meters discloses an inaccuracy of more than one-half percent (1/2%) fast or one-half percent (1/2%) slow, any payments or adjustments made or calculated under this Agreement that would have been affected by the inaccuracy shall be recalculated to correct for the inaccuracy. For purposes of such correction, if the inaccuracy is traceable to a specific event or occurrence at a reasonably ascertainable time, then the adjustment shall extend back to that time; otherwise, it shall be assumed that the error has existed for a period equal to one-half of the time elapsed since the meter was installed or one-half of the time since the last meter test, whichever is later. Either Party may, at its option and expense, have check meters installed. If installed, such check meters shall be used, in accordance with practices and procedures established by the Parties, for billing adjustments of discovered meter inaccuracies. If at any time both the billing and check meters at any metering location should fail to register, Seller shall determine the delivered Energy from the best available data, unless PGE objects to such determination within sixty (60) days after its delivery to PGE. Such disagreements shall be resolved pursuant to the dispute resolution provisions set forth in Article 23. If either Party determines, as a result of correction of measurements made by inaccurate meters, that any payments or adjustments made pursuant to this Agreement are incorrect, the Parties shall use the corrected measurements to recompute such payments or adjustments. Any amounts which are determined to be payable or subject to refund as a result of such recomputations shall be paid to the Party entitled to such amounts within twenty (20) days after the paying Party is notified of the

recomputation, with interest at the Interest Rate from the date payment was originally made to the date of payment or refund of such adjustment.

ARTICLE VI

SCHEDULING AND DISPATCH

[NOTE TO BIDDERS: The Scheduling and Dispatch provisions may need to be modified to reflect the actual size and equipment of the Facility.]

6.1 Operational Limitations on Scheduling and Dispatch.

(a) The minimum guaranteed ramp rate of the Gas Turbine between the minimum Dispatch level and full load is _____ () MW per minute. Seller shall use commercially reasonable efforts, consistent with Prudent Electric Industry Practice, to achieve the maximum guaranteed ramp rate between the minimum Dispatch level and full load as established by the gas Turbine vendor's guidelines. The minimum time between a shut down of the Gas Turbine and a subsequent start-up of the Gas Turbine shall be ____ () hours.

(b) Once started, the Facility must, subject to the terms and conditions of this Agreement, run for a minimum of ____ () consecutive hours.

(c) Notwithstanding any other provision in this Agreement, Dispatch of the Facility pursuant to the Schedules of any other purchasers of Energy from the Facility shall not affect the Guaranteed Net Heat Rate or PGE's rights with respect to Scheduling or Dispatch of the Facility as set forth herein.

6.2 PGE's Rights and Obligations With Respect to Scheduling and Dispatch.

(a) General Protocols.

(i) Subject to the terms and conditions of this Agreement, the default operating condition of the Facility at Preschedule shall be to run at full capacity when the Spark Spread at 0605 PPT on such Preschedule Day is positive.

(ii) In no event may PGE Schedule Energy from the Facility in increments less than ____ () MW; provided that such limitation shall not apply to the Schedule of Energy in an amount within 10 MW of the available Contract Capacity; provided, further, that, notwithstanding the foregoing, under no circumstances may PGE Schedule Energy from the Facility in increments less than one (1) MW.

(iii) PGE may not Schedule Energy from the Facility in an amount in excess of ____ MWh/hr.

(iv) Implementation of the Facility Dispatch status and applicable Energy Schedules as determined on any Preschedule Day in accordance with the terms and conditions of this Agreement shall commence at 0000 PPT on the first day to which such Preschedule Day relates and continue through 2400 PPT on the last day to which such Preschedule Day relates. Notwithstanding the foregoing, PGE shall have the right during the Deadband Period on any Preschedule Day, to require an alternate implementation Schedule of Dispatch of the Contract Capacity for the day or days to which the Preschedule Day relates. In

the event of any such requirement, PGE shall, prior to the end of the applicable Deadband Period, notify Seller of such alternate implementation Schedule of Facility Dispatch

(b) Protocols for Turndown of Facility.

(i) Subject to the terms and conditions of this Section 6.2, PGE shall, within the design limits of the Facility, be entitled to Schedule the Scheduled Energy from the Facility in integral increments less than ___ MWh/hr; provided that PGE may not Schedule Energy in an amount less than __ MWh/hr.

(ii) PGE shall be responsible for providing the Gross Fuel Quantity, in the applicable amount required pursuant to the applicable Guaranteed Net Heat Rate, for any hour in which PGE Schedules Energy.

(c) Deadband Period Dispatch Modification Rights. Except as hereinafter set forth, at 0605 PPT on each Preschedule Day, Seller shall calculate the Spark Spread for such day. Seller shall promptly thereafter communicate to PGE such Spark Spread and the Facility Dispatch status (i.e., start-up, continued operation or "off") established by such Spark Spread, so as to permit PGE a reasonable period of time to schedule (i) Transmission Service, and (ii) delivery of the Gross Fuel Quantity to the Fuel Receipt Point as appropriate for the Facility Dispatch status. In the event that on any Preschedule Day either or both of the [Name] Gas Price and the [Hub Name] Energy Price must be calculated pursuant to any of the protocols set forth in Section 6.2(d) that require use of data other than data posted on ICE at 0605 PPT on such day, Seller shall provide PGE with notice of the Facility Dispatch status promptly upon determination of the Spark Spread on such basis; provided, however, that in the event that Seller has not calculated the Spark Spread and communicated such Spark Spread to PGE by 0630 PPT, the Facility Dispatch status for such day will be "off" unless PGE and Seller agree to an alternate Facility Dispatch status in accordance with the provisions of this Section 6.2(c).

(d) Fallback Mechanisms for Calculating [Name] Gas Price and [Hub Name] Energy Price.

(i) In the event that an active bid or ask price for Next Day Natural Gas Firm Physical (FP)-[Hub Name]-[Name] is not posted on ICE at 0605 on any Preschedule Day, the _____[Hub Name] Gas Price for such day shall be calculated by using the following alternate price data, in the following order of precedence: (1) the simple average of the last two market clearing trades for such day as posted on ICE at 0605; (2) the last market clearing trade for such day as posted on ICE at 0605; (3) the Parties shall identify an alternate mutually agreeable Price Source; and (4) if the Parties are unable to identify a mutually agreeable alternate Price Source, the Normal Dispatch Status for such day will be that the Facility is "off." In the event that an active bid or ask price is not posted on ICE for a second consecutive day and the Parties are unable to identify a mutually agreeable alternate Price Source, the Parties shall follow the process outlined in Article 17 of this Agreement for a Market Disruption Event.

(ii) In the event that an active bid or offer price for Electricity Firm-LD Peak Physical FP-Hub _____[HUB NAME] (Next Day) or for Electricity Firm-LD Off-Peak Physical FP-Hub [HUB NAME] (Next Day) is not posted on ICE at 0605 on any Preschedule Day, the [Hub Name] Energy Price for such day shall be calculated by using the following alternate price data, in the following order of precedence: (1) the simple average of the last two market clearing trades for such day as posted on ICE at 0605; (2) the last market clearing trade for such day as posted on ICE at 0605; (3) the Parties shall identify an alternate mutually

agreeable Price Source; and (4) if the Parties are unable to identify a mutually agreeable alternate Price Source, the Normal Dispatch Status for such day will be that the Facility is "off." In the event that an active bid or offer price is not posted on ICE for a second consecutive day and the Parties are unable to identify a mutually agreeable alternate Price Source, the Parties shall follow the process outlined in Article 17 of this Agreement for a Market Disruption Event.

6.3 Submission of Schedules to Transmission Provider(s). During the Delivery Term, (i) Seller shall Schedule with the appropriate Transmission Providers (or arrange for Scheduling service), in accordance with the applicable Transmission Provider's Scheduling notice requirements, to deliver the Scheduled Energy to the Energy Delivery Point, and (ii) PGE shall Schedule with the appropriate Transmission Providers (or arrange for Scheduling service), in accordance with the applicable Transmission Provider's Scheduling notice requirements, to receive and transmit the Scheduled Energy at and from the Energy Delivery Point.

6.4 Required Scheduling Capabilities. Each Party shall maintain (or be responsible for arranging on its behalf) a 24-hour around-the-clock real-time fully capable Scheduling operation throughout the Delivery Term. In addition, each Party shall comply with all applicable NERC and WECC Scheduling requirements and criteria.

6.5 Availability Notice.

(a) Seller guarantees to PGE Capacity Availability of not less than 97% Capacity Availability over the Term. In addition, Seller shall furnish to PGE an availability notice with respect to the availability of capacity and energy at the Facility and the amount of Replacement Energy to be provided for each day during the Delivery Term. Each such notice shall be furnished not less frequently than daily, at or before 0630 PPT on the day prior to the Preschedule Day for the day to which such notice shall relate. In addition, Seller shall furnish to PGE a new availability notice promptly after Seller determines that (i) the actual available capacity and energy of the Facility is greater than or less than the available capacity and energy set forth in the current availability notice or (ii) some or all of the unavailable energy from the Facility is being provided by Replacement Energy (in which event such notice shall specify what portion of such energy is being provided by Replacement Energy).

(b) Subject to the terms and conditions of this Agreement, PGE's payment obligation with respect to Capacity Charges shall, unless and to the extent Seller provides PGE with Replacement Energy, be reduced in accordance with the provisions of Section 9.5 to the extent capacity and energy is not available.

6.6 Submission of Preschedules. During the Delivery Term, on each Preschedule Day on which there has been a determination pursuant to Article 6 to Dispatch the Contract Capacity "on," (a) PGE shall, no later than 0700 PPT on such day, submit to Seller (at Seller's Scheduling notice address set forth in this Agreement) a Preschedule for the hourly amount of Scheduled Energy for all On-Peak Hours and the hourly amount of Scheduled Energy for all Off-Peak Hours for the following day or days (as applicable to such Preschedule Day), and (b) Seller shall, no later than 0715 PPT on such day, submit to PGE (at PGE's Scheduling notice address set forth in this Agreement) a Preschedule for the hourly amount of the aggregate of the Scheduled Energy and the scheduled energy for other purchasers, with contracts on the Effective Date, from the Facility for all On-Peak Hours and all Off-Peak Hours for the following day or days (as applicable to such Preschedule Day). The Parties' respective Schedulers shall maintain hourly real-time Schedule coordination; provided, however, that in the absence of real-time changes to the Schedule in accordance with the provisions of this Agreement, the hourly Schedule

established by PGE's Preschedules shall be considered final. The hourly amounts of Scheduled Energy may be in any increment permitted pursuant to the terms of this Agreement.

6.7 Scheduling Changes. PGE shall have the right to make any change to any Preschedule for any On-Peak Hour or Off-Peak Hour at any time up to and including 90 minutes prior to the beginning of the applicable Scheduled hour. Any changes made by PGE to any Preschedule shall be subject to each and all of the provisions of this Agreement, including but not limited to the provisions of Sections 6.1 and 6.2.

6.8 Generation Imbalance Charges. Except as provided in this Section 6.8, Seller shall pay or cause to be paid any and all Generation Imbalance Charges. PGE shall be responsible for payment of any and all Generation Imbalance Charges caused by or resulting from (a) any failure by PGE to receive Scheduled Energy in accordance with the requirements of this Agreement, (b) any failure by PGE to Schedule Energy in accordance with the requirements of this Agreement, or (c) any failure by PGE to deliver Fuel in accordance with the requirements of this Agreement.

6.9 Accounting for Deliveries. All transactions under this Agreement shall be accounted for on the basis of Scheduled hourly quantities to the Energy Delivery Point, except (a) when deliveries are interrupted or curtailed or (b) for any period in which the Facility is ramping up or ramping down. In the event of such interruptions or curtailments or ramp-ups or ramp-downs, hourly Energy Schedules shall be reduced on an integrated hourly basis to reflect such interruptions or curtailments. If Scheduled deliveries and receipt of Energy are not maintained for an entire hour, real-time deliveries shall be accounted for on a prorated basis, using the arithmetic mean of the Energy deliveries over such hour. The Parties shall maintain records of all hourly Energy Schedules for accounting and operating purposes for a period of not less than two (2) years from the date of each such Schedule.

6.10 Ancillary Services. PGE may Schedule the Facility to provide Ancillary Services associated with the Contract Capacity.

6.11 Replacement Energy. Seller may, at its option and sole cost, provide Firm Energy from time to time to PGE from sources other than the Facility at any time that the Facility becomes partially or completely unavailable after PGE submits a Preschedule to Seller ("Replacement Energy"). Seller shall provide the Replacement Energy to the Energy Delivery Point, or to any other location upon which the Parties may mutually agree, at Seller's own cost. PGE shall be obligated to receive, accept and pay for any Replacement Energy provided by Seller pursuant to the terms of this Agreement as if such Replacement Energy were Scheduled Energy.

6.12 Unscheduled Contract Capacity. In the event that at any time PGE does not for any reason Schedule Energy from 100% of its Contract Capacity, Seller shall have no right to Dispatch or Schedule or sell any such unscheduled Contract Capacity or associated Energy.

ARTICLE VII

FUEL SUPPLY

[NOTE TO BIDDERS: The Fuel provisions may need to be modified to reflect the actual Fuel Receipt Point and the actual fuel transportation arrangements.]

7.1 Transfer of Gross Fuel Quantity; Delivery.

(a) On the terms and subject to the conditions of this Agreement, PGE shall deliver to Seller, and Seller shall receive from PGE, at the Fuel Receipt Point, the Gross Fuel Quantity

(b) On each Gas Day at the Fuel Receipt Point, PGE shall deliver the Gross Fuel Quantity for such Gas Day to Seller subject to any adjustments in the amount of such Fuel as elected by PGE pursuant to the terms of Section 7.5(c) and (d), and Seller shall receive the Gross Fuel Quantity for such Gas Day from PGE subject to any adjustments in the amount of such Fuel as elected by PGE pursuant to the terms of Section 7.5(c) and (d).

7.2 Fuel Receipt Point, Fuel Delivery Point and Metering.

(a) Fuel Receipt Point and Fuel Delivery Point. PGE shall deliver the Gross Fuel Quantity to Seller at the Fuel Receipt Point at PGE's sole cost and expense. Seller shall be responsible for arranging for transportation of the Gross Fuel Quantity, on the terms and subject to the conditions of this Agreement, to the Fuel Delivery Point. Seller will be the shipper of record between the Fuel Receipt Point and the Fuel Delivery Point, and will be responsible for satisfying all of the obligations associated with such transport under the [Name] Pipeline Tariff. If PGE, using commercially reasonable efforts, is unable to deliver any portion of the Gross Fuel Quantity to the Fuel Receipt Point, PGE shall be entitled to deliver such portion (less applicable fuel charges) to Seller at the Fuel Delivery Point (in which event the Fuel Delivery Point shall be deemed to be the Fuel Receipt Point for purposes of this Agreement). [These provisions will be used only if the Fuel Receipt Point differs from the Fuel Delivery Point.]

(b) Fuel Metering Equipment and Testing at Fuel Delivery Point. Seller shall cause [Name] Pipeline to operate, test, and maintain all metering equipment at the Fuel Receipt Point and the Fuel Delivery Point. Measurement of Fuel quantities hereunder shall be in accordance with the established procedures of [Name] Pipeline. Seller shall obtain from [Name] Pipeline and provide to PGE copies of all routine meter calibration test results conducted in compliance with [Name] Pipeline's ____ tariff.

7.3 Fuel for Start-Up; Fuel Specifications.

(a) Seller shall provide all natural gas and energy required for start-up of the Facility until such time as a Successful Start-Up has occurred.

(b) Fuel tendered by PGE for delivery to Seller at the Fuel Receipt Point shall meet the then current natural gas quality specifications as set forth in [Name] Pipeline's FERC tariff, as such specifications may change from time to time. In the event that any Fuel so tendered does not meet such specifications, Seller's sole and exclusive remedy shall be to reject such Fuel. In the event Seller rejects the Fuel, the Fuel shall be deemed undelivered and the Dispatch status of the Facility for such day shall be deemed "off."

7.4 Fuel Transportation Service and Costs. [This Section will be used only if the Fuel Receipt Point differs from the Fuel Delivery Point.]

(a) Fuel Transportation From Fuel Receipt Point to Fuel Delivery Point. On the terms and subject to the conditions of this Agreement, Seller shall be responsible for

transportation and delivery of the Gross Fuel Quantity (less any applicable fuel reimbursement to [Name] Pipeline from the Fuel Receipt Point to the Fuel Delivery Point. Seller shall ensure that, at all times, it has _____ MMBtu/day (i.e., the product of (i) the Contract Capacity and (ii) _____ MMBtu/MWh [the Guaranteed Heat Rate] and (iii) 24 hours per day) of firm transportation capacity on [Name] Pipeline available for the transportation of the amount of Fuel (the "Dedicated Capacity"), to be used to produce Scheduled Energy. Seller hereby represents and warrants to PGE that Seller has sufficient firm transportation capacity on [Name] Pipeline to perform Seller's obligations under this Section 7.4(a) throughout the Delivery Term.

(b) Responsibility for Fuel Transportation Costs; OFOs. For each Month during the Delivery Term, PGE shall pay Seller an amount equal to all Transportation Charges, as follows: (i) Transportation Variable Charges incurred by Seller in connection with any and all transportation and delivery of the Gross Fuel Quantity (less applicable fuel charges) from the Fuel Receipt Point to the Fuel Delivery Point, plus (ii) the Transportation Fixed Charges for each day during the Month proportionately reduced for any day on which either (i) Seller has notified PGE that less than all of the Contract Capacity is available or (ii) Seller has failed to deliver Scheduled Energy pursuant to the terms of this Agreement. To the extent that Seller is assessed any indivisible Transportation Variable Charge that applies to the transportation or delivery of both the Gross Fuel Quantity and volumes of natural gas other than the Gross Fuel Quantity, PGE shall be responsible for a fair and reasonable pro rata share of such Transportation Variable Charge in proportion to the ratio of the Gross Fuel Quantity to such other volumes of natural gas. In the event of any OFO, Seller shall promptly notify PGE thereof, and PGE shall promptly notify Seller whether PGE wishes to flow natural gas to the OFO delivery point or to the Fuel Delivery Point (in which event PGE shall be responsible for any and all resulting penalty charges assessed by [Name] Pipeline).

(c) Nominations for Fuel. Each of Seller and PGE shall comply with each and all of the terms and conditions of [Name] Pipeline with respect to nominations and scheduling. Each of Seller and PGE shall designate a single Person to coordinate all Fuel nomination information to be transmitted between PGE, on the one hand, and Seller, on the other, consistent with this Agreement (each, a "Fuel Nominating Agent"). Each Party shall notify the other of such Party's Fuel Nominating Agent, and may change the Fuel Nominating Agent from time to time and at any time by notice to the other Party. The Fuel Nominating Agents shall coordinate on behalf of PGE or Seller, as applicable, all Fuel nominating information to be transmitted between the Parties.

(d) Curtailment Allocation. If, on any Gas Day, [Name] Pipeline curtails gas deliveries to the Fuel Receipt Point for any reason other than PGE's failure to deliver gas scheduled to be delivered to the Fuel Receipt Point, Seller shall not be entitled to allocate the effects of such curtailment to PGE in any amount greater than the proportion that the Net Fuel Quantity for such Gas Day bears to all scheduled fuel nominations for the Facility for such Gas Day.

7.5 Gas Balancing and Gas Imbalance Charges.

(a) The Parties shall use commercially reasonable efforts to avoid imposition of any Gas Imbalance Charges. If PGE or Seller receives an invoice from a Transporter that includes Gas Imbalance Charges, the Parties shall determine the validity as well as the cause of such Gas Imbalance Charges and, except as otherwise provided in Section 7.5(d), the Party causing the applicable gas imbalance shall be responsible for, and pay, any resulting Gas Imbalance Charges.

(b) PGE shall comply with all applicable [Name] Pipeline balancing requirements; provided, however, that PGE shall not be required to comply with daily and monthly balancing requirements any more stringent than those required by [Name] Pipeline. Seller shall timely notify PGE of all applicable daily balancing limits under [Name] Pipeline entitlement and OFO requirements, and PGE shall comply therewith. In addition, in the event that Seller receives notice from [Name] Pipeline of any imbalance charges or penalties imposed by [Name] Pipeline with respect to the Dedicated Capacity, Seller shall promptly notify PGE of such imbalance charges or penalties.

(c) To the extent PGE causes a gas imbalance that would result in a gas imbalance penalty being assessed against PGE pursuant to this Agreement, PGE may deliver Fuel in an amount greater or less than the Gross Fuel Quantity for purposes of curing such gas imbalance in a manner consistent with the gas balancing provisions of the [Name] Pipeline Tariff.

(d) At any time there is a positive balance in PGE's Gas Surplus Account; PGE shall have the right to elect to reduce its obligation to deliver the Gross Fuel Quantity by any amount (the "Daily Gas Surplus Reduction") up to the balance of PGE's Gas Surplus Account. PGE shall provide notice of such election to Seller no later than the nomination deadline for "Timely Nomination Cycle" under the [Name] Pipeline Tariff. In the event PGE makes such election, then, in addition to the quantity of Fuel PGE actually delivers on such day, PGE shall be deemed to have delivered a quantity of Fuel equal to the Daily Gas Surplus Reduction on such day pursuant to the terms of this Agreement.

(e) If any Force Majeure event, Forced Outage or Forced Derate results in the imposition of a Gas Imbalance Charge with respect to Fuel during any Gas Day, and notwithstanding Seller's commercially reasonable efforts to comply with [Name] Pipeline's requirements for balancing, Seller incurs any liability for Gas Imbalance Charges, PGE will reimburse Seller for a share of such Gas Imbalance Charges which is equal to the ratio of (i) the Net Fuel Quantity for such Gas Day, to (ii) all scheduled fuel nominations for the Facility for such Gas Day.

7.6 Release of Dedicated Capacity. [This Section will be used only if the Fuel Receipt Point differs from the Fuel Delivery Point.] Seller shall, upon any request by PGE, use commercially reasonable efforts to release any Dedicated Capacity that is not utilized to deliver Fuel for the production of Scheduled Energy. Seller shall obtain PGE's consent prior to releasing or using such Dedicated Capacity for purposes other than delivering Fuel under this Agreement. In the event PGE locates a potential release for any such capacity or otherwise identifies a commercially reasonable use for such capacity, Seller shall cooperate with PGE to effect such release or other transaction. In the event that PGE agrees and Seller is able to use or arrange for the release of any such Dedicated Capacity, then ninety percent (90%) of the gross proceeds obtained by Seller for such utilized or released Dedicated Capacity shall be deducted from any amounts payable by PGE pursuant to Section 7.4(b).

7.7 Title and Risk of Loss for Fuel. As between the Parties, PGE shall be deemed to be in exclusive control (and responsible for any losses, costs, damages or injury caused thereby) of the Fuel to be delivered hereunder prior to the Fuel Receipt Point, and Seller shall be deemed to be in exclusive control (and responsible for any losses, costs, damages or injury caused thereby) of the Fuel delivered hereunder at, from and after the Fuel Receipt Point.

7.8 Warranties Regarding Fuel. PGE represents and warrants that it shall have the right to transfer to Seller at the Fuel Receipt Point, all Fuel delivered hereunder by PGE to Seller,

free and clear of all liens, encumbrances, and claims. EXCEPT AS SET FORTH IN THE PRECEDING SENTENCE, ALL WARRANTIES REGARDING FUEL, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE, ARE DISCLAIMED.

7.9 Seller's Sole Remedy for PGE's Failure to Deliver Fuel. Except for any Generation Imbalance Charges or Gas Imbalance Charges that may be payable pursuant to Sections 6.8 or 7.5(a), Seller's sole and exclusive remedy for PGE's failure to deliver any quantity of Fuel on any day shall be Seller's right not to deliver on such day the corresponding quantity of Energy that would have been produced with such Fuel, based on the applicable Guaranteed Net Heat Rate.

ARTICLE VIII

ENERGY DELIVERY POINT

8.1 Transmission. Seller shall be responsible for securing, and paying all charges, costs and expenses imposed on or associated with, transmission and delivery of Energy to the Energy Delivery Point, including inadvertent energy flows, transmission losses and loss charges relating to the transmission of Energy to the Energy Delivery Point. PGE shall be responsible for securing, and paying all charges, costs and expenses imposed on or associated with, transmission and delivery of Energy at, from and after the Energy Delivery Point, including inadvertent energy flows, transmission losses and loss charges relating to the transmission of Energy at, from and after the Energy Delivery Point.

8.2 Energy Delivery Point. Seller shall deliver Scheduled Energy to the Energy Delivery Point.

8.3 Title and Risk of Loss. As between the Parties, Seller shall be deemed to be in exclusive control (and responsible for any losses, costs, damages or injury caused thereby) of the Product to be delivered hereunder prior to the Energy Delivery Point, and PGE shall be deemed to be in exclusive control (and responsible for any losses, costs, damages or injury caused thereby) of the Product delivered hereunder at, from and after the Energy Delivery Point. Title and risk of loss related to Product delivered hereunder shall transfer from Seller to PGE at the Energy Delivery Point. Seller warrants that it will deliver to PGE the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to delivery to PGE at the Delivery Point.

8.4 Measurement of Energy. All Energy delivered hereunder shall be measured at the metering facilities located at the Energy Delivery Point, as further set forth in Article 5.

ARTICLE IX

CHARGES; AVAILABILITY GUARANTEE; INFORMATION AND SITE ACCESS

9.1 Capacity Charge. Except as otherwise provided in this Agreement and subject to adjustment as provided in Section 9.5(b) below, in consideration for the availability of Contract Capacity during the Delivery Term and for each Month during the Delivery Term, PGE shall pay to Seller a Capacity Charge, as hereinafter set forth. The Capacity Charge for each full Month during the Delivery Term shall, subject to adjustment as provided in Section 9.5(b), be the amount of USD \$_____ (such unadjusted amount, the "Standard Capacity Charge"). The

Capacity Charge for any partial Month shall be prorated from the Capacity Charge for a full Month, based upon the number of days in such partial Month falling within the Delivery Term compared to the total number of days in such Month. Unless otherwise excused as provided in this Agreement, PGE shall pay the Capacity Charge each Month throughout the Delivery Term whether or not PGE actually Schedules deliveries of any Energy. Payment of the Capacity Charge established under this Agreement shall compensate Seller for the Contract Capacity, all costs related to station service for the Facility and costs related to Ancillary Services provided pursuant to Section 3.1(c), and Seller shall not charge any station service costs or Ancillary Service cost to PGE.

9.2 Variable O&M Charge. Except as otherwise provided in this Agreement, each Month during the Delivery Term PGE, in consideration for the Scheduled Energy delivered by Seller to PGE under this Agreement, shall pay to Seller a charge (the "Variable O&M Charge") equal to the product of (a) USD \$-- per MWh (the "Variable O&M Price") and (b) the total number of MWhs of Scheduled Energy delivered to PGE by Seller at the Energy Delivery Point during such Month.

9.3 [Variable Energy Charge. – This Section will be used if the Fuel Receipt Point differs from the Fuel Delivery Point.]

(a) Except as otherwise provided in this Agreement, and without limiting the provisions of Sections 7.4 and 7.5, Seller shall, for each Gas Day of each Month during the Delivery Term, pay to PGE an amount equal to the product of (a) the Gross Fuel Quantity for such Gas Day, and (b) the Gas Index Price for such Gas Day, in consideration for the delivery of such Gross Fuel Quantity by PGE to Seller.

(b) Except as otherwise provided in this Agreement, and without limiting the provisions of Sections 7.4 and 7.5, PGE shall, for each Gas Day of each Month during the Delivery Term, pay to Seller, in consideration for the Energy delivered by Seller to PGE under this Agreement, an amount (the "Variable Energy Charge") as determined by the following formula:

$$GA = (1 + FC) \times (DE \times SHR) \times GIP$$

Where:

GA = The total amount payable pursuant to this Section 9.3(b)

FC = The [Name] Pipeline Fuel Charge

DE = The total quantity (in MWh) of Scheduled Energy delivered by Seller to PGE at the Energy Delivery Point during such day

SHR = The [Hub Name] weighted average (in MMBtu/MWh) of the Guaranteed Net Heat Rate for all such Scheduled Energy

GIP = The Gas Index Price applicable to the Fuel utilized to produce such Scheduled Energy

9.4 Start-Up Charge [to be determined].

9.5 Availability of Facility.

(a) Availability Guarantee. During the Delivery Term, Seller shall deliver Energy and make available capacity from the Facility not less than 97% of the hours in each Month (exclusive of Scheduled Outages) (the "Availability Guarantee"). The Facility shall not be considered available for purposes of the Availability Guarantee during any period Seller has declared the Facility unavailable pursuant to Section 6.5, during any Force Majeure event affecting Seller, during any Forced Outage, to the extent affected by any Forced Derate, and for any period in excess of [____] minutes that is required for any Successful Start-Up (but only to the extent that such period affects delivery of any Scheduled Energy). A sample calculation of the availability formula is set forth in Exhibit D.

(b) Adjustments to Standard Capacity Charge. If Seller fails to meet its Guaranteed Availability Factor (GAF), the Standard Capacity Charge shall be reduced by the amount of the Liquidated Damages calculated pursuant to Exhibit G. If the amount of Liquidated Damages is larger than the Standard Capacity Charge, then Seller shall pay PGE the net difference within two (2) Business Days of receipt of an invoice from PGE.

(c) Termination Due to Failure to Meet Availability Guarantee. In the event Seller fails to meet the Availability Guarantee for a period of thirty (30) consecutive days or more during the Delivery Term, then in addition to other remedies provided under this Agreement, PGE shall have the right, to terminate this Agreement effective upon three (3) Business Days' notice to Seller. If PGE terminates this Agreement under this Section 9.5(c), then Seller shall pay PGE the Termination Payment within five (5) Business Days after the effective date of such termination. In the event of termination pursuant to this Section 9.5(c), neither Party shall, except as set forth in the preceding sentence, have any liability whatsoever to the other Party under or in connection with this Agreement; provided, however, that no such termination shall relieve either Party of liability for any costs or other obligations incurred prior to the effectiveness of such termination.

9.6 Information Systems; Access to Facility and Facility Site.

(a) Seller and PGE shall develop and coordinate procedures and information systems for the Parties' day-to-day operations under this Agreement, including, without limitation, Facility availability forecasts, ramp rates and operational restrictions, and systems concerning the operations of the Facility as required by the Balancing Authority Area.

(b) Seller authorizes PGE and its agents, employees and inspectors to have reasonable access to the Facility and the Facility site, in each case upon reasonable prior notice (in light of the circumstances). PGE acknowledges that such access does not create any right for PGE to direct or modify the operation of the Facility in any way and PGE further acknowledges that any exercise of its rights pursuant to this Section 9.6 shall be at its own risk and cost and expense.

ARTICLE X

FORCE MAJEURE

10.1 Definition and Notice.

(a) Force Majeure means an event or circumstance which prevents one Party from performing its obligations to deliver or receive the Product or Fuel under this Agreement, which event or circumstance was not anticipated or reasonably foreseeable by the Claiming Party as of the date the Product was Scheduled, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure shall not be based on (i) the loss of PGE's markets; (ii) PGE's inability economically to use or resell the Product purchased hereunder; (iii) the loss or failure of Seller's supply; (iv) Seller's ability to sell the Product at a price greater than the Contract Price, or (v) Seller's inability to economically produce the Product. Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Product to be delivered to or received at the Energy Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that the existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in the first sentence hereof has occurred.

(b) To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this Agreement and such Party (the "Claiming Party") gives notice and details of the Force Majeure to the other Party as soon as practicable, then the Claiming Party shall be excused from the performance of its obligations under this Agreement affected by such Force Majeure (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). The Claiming Party shall remedy the Force Majeure with all reasonable dispatch. The non-Claiming Party shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure.

10.2 Termination Relating to Force Majeure Events. If any Force Majeure event claimed by Seller shall suspend performance by Seller for a period of thirty (30) consecutive days or more during the Delivery Term, then PGE may, at any time following the end of such one 30-day period, but for only so long as such Force Majeure event is still claimed by Seller, terminate this Agreement effective upon written notice to Seller. In the event of termination pursuant to this Section 10.2, neither Party shall have any liability whatsoever to the other Party under or in connection with this Agreement; provided, however, that no such termination shall relieve either Party of liability for any costs or other obligations incurred prior to the effectiveness of such termination.

ARTICLE XI

EVENTS OF DEFAULT

11.1 Events of Default; Termination. An "Event of Default" means, with respect to a Party (a "Defaulting Party"), the occurrence of any of the following:

(a) the occurrence of a Material Adverse Change with respect to the Defaulting Party; provided, such Material Adverse Change shall not be considered an Event of Default if the Defaulting Party establishes and maintains for so long as the Material Adverse Change is continuing, Performance Assurance to the Non-Defaulting Party in an amount determined by the Non-Defaulting Party in a commercially reasonable manner;

(b) the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within five (5) Business Days after written notice;

(c) the failure to perform any material covenant or obligation set forth in this Agreement (except (i) to the extent constituting a separate Event of Default, (ii) the obligations of such Party to deliver or receive capacity or Energy, the exclusive remedy for which is provided in Article 12, and (iii) the obligations of PGE relating to delivery of Fuel, the exclusive remedy for which is provided in Section 7.9) if such failure is not remedied within ten (10) Business Days after written notice;

(d) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated;

(e) such Party becomes Bankrupt;

(f) the failure of such Party to establish, maintain, extend or increase Performance Assurance when required pursuant to this Agreement;

(g) Seller sells Contract Capacity or associated Energy to any Person other than PGE (other than as a result of the failure of PGE to receive Scheduled Energy);

(h) Seller knowingly delivers a false availability notice pursuant to Section 6.5(a);

(i) Seller fails to meet its Availability Guarantee, , provided, such failure shall not be considered an Event of Default if Seller pays PGE the liquidated damages calculated as provided in Exhibit “H” attached hereto and made a part hereof.

(j) A Merger Event occurs with respect to such Party or its Guarantor;

(k) the occurrence and continuation of (i) a default, event of default or other similar condition or event in respect of such Party or any other party specified for such Party under one or more agreements or instruments, individually or collectively, relating to indebtedness for borrowed money in an aggregate amount equal to or greater than the applicable Cross Default Amount which results in such indebtedness becoming immediately due and payable or (ii) a default by such Party or any other party specified for such Party in making on the due date therefor one or more payments, individually or collectively, in an aggregate amount equal to or greater than the applicable Cross Default Amount;

(l) the occurrence of a Letter of Credit Default with respect to such Party, which Letter of Credit Default is not remedied within three (3) Business Days after written notice to such Party; or

(m) the occurrence of a Guaranty Default with respect to such Party.

11.2 Declaration of an Early Termination Date and Calculation of Settlement Amounts.

(a) Early Termination Date. If an Event of Default with respect to a Defaulting Party shall have occurred at any time during the Term and be continuing, the other

Party (the "Non-Defaulting Party") shall have the right to (i) designate a day, no earlier than the day such notice is effective and no later than 20 days after such notice is effective, as an early termination date ("Early Termination Date") on which to liquidate, terminate, and accelerate all amounts owing between the Parties, (ii) withhold any payments due to the Defaulting Party under this Agreement and (iii) suspend performance. If an Early Termination Date has been designated, the Non-Defaulting Party shall calculate, in a commercially reasonable manner, its Gains or Losses and Costs resulting from the termination of this Agreement as of the Early Termination Date and the Termination Payment payable hereunder shall be calculated in accordance with Section 11.2(b) below).

(b) Calculation of Settlement Amounts. The Gains or Losses resulting from the termination of this Agreement shall be determined by calculating the amount that would be incurred or realized to replace or to provide the economic equivalent of the remaining payments or deliveries in respect to this Agreement. The Non-Defaulting Party (or its agent) may determine its Gains and Losses by reference to information either available to it internally or supplied by one or more third parties including, without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets. Third parties supplying such information may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. However, it is expressly agreed that (i) a Party shall not be required to enter into a replacement agreement in order to determine the Termination Payment and (ii) a Party's Gains, Losses or Costs will in no event include any penalties, ratcheted demand or similar charges. At the time for payment of any amount due under this Section 11.2, each Party shall pay to the other Party all additional amounts payable by it pursuant to this Agreement, but all such amounts shall be netted and aggregated with any Termination Payment payable hereunder.

11.3 Net Out of Settlement Amounts. The Non-Defaulting Party shall aggregate all Settlement Amounts into a single amount by: netting out (i) all Settlement Amounts that are due to the Defaulting Party, plus any cash or other form of security then available to the Non-Defaulting Party pursuant to Article 15, plus any or all other amounts due to the Defaulting Party under this Agreement against (ii) all Settlement Amounts that are due to the Non-Defaulting Party, plus any cash or other form of security then available to the Defaulting Party pursuant to Article 15, plus any or all other amounts due to the Non-Defaulting Party under this Agreement, so that all such amounts shall be netted out to a single liquidated amount (the "Termination Payment") payable by one Party to the other. The Termination Payment shall be due to or due from the Non-Defaulting Party as appropriate

11.4 Notice of Payment of Termination Payment. As soon as practicable after a termination of this Agreement, notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to or due from the Non-Defaulting Party. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. The Termination Payment shall be made by the Defaulting Party within two (2) Business Days after such notice is effective. Notwithstanding any provision to the contrary contained in this Agreement, the Non-Defaulting Party shall not be required to pay to the Defaulting Party any amount under Article 11 until the earlier of the date (i) the Non-Defaulting Party receives confirmation satisfactory to it in its reasonable discretion (which may include an opinion of its counsel) that all other obligations of any kind whatsoever of the Defaulting Party to make any payments to the Non-Defaulting Party under this Agreement or otherwise which are due and payable as of the Early Termination

Date have been fully and finally performed, or (ii) that is 180 days after the Early Termination Date.

11.5 Disputes with Respect to Termination Payment. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of Non-Defaulting Party's calculation of the Termination Payment provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute; provided, however, that if the Termination Payment is due from the Defaulting Party, the Defaulting Party shall first transfer Performance Assurance to the Non-Defaulting Party in an amount equal to the disputed amount of the Termination Payment, and pay the undisputed amount of the Termination Payment as provided above..

11.6 Closeout Setoffs. After calculation of a Termination Payment in accordance with Section 11.2, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to (i) set off against such Termination Payment any amounts due and owing by the Defaulting Party to the Non-Defaulting Party under any other agreements, instruments or undertakings between the Defaulting Party and the Non-Defaulting Party and/or (ii) to the extent the purchases or sales are not yet liquidated in accordance with Section 11.2, withhold payment of the Termination Payment to the Defaulting Party. The remedy provided for in this Section shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

11.7 Suspension of Performance. Notwithstanding any other provision of this Agreement, if an Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, shall have the right (i) to suspend performance under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days unless an Early Termination Date shall have been declared and notice thereof pursuant to Section 11.2 given, and (ii) to the extent an Event of Default shall have occurred and be continuing to exercise any remedy available at law or in equity.

ARTICLE XII

REMEDIES FOR FAILURE TO DELIVER OR RECEIVE

12.1 Remedy for Seller's Failure to Deliver.

(a) EACH PARTY CONCEDES THAT ITS FAILURE TO DELIVER OR RECEIVE SCHEDULED ENERGY, OR SELLER'S FAILURE TO RECEIVE NOMINATED AND SCHEDULED FUEL IN BREACH OF THE PROVISIONS OF THIS AGREEMENT MAY CAUSE IRREPARABLE HARM TO THE OTHER PARTY, AND THAT THE MEASURE OF DAMAGES PROVIDED FOR HEREIN WILL NOT BE SUFFICIENT TO COMPENSATE FOR THE HARM SUFFERED AS A RESULT OF SUCH FAILURE TO PERFORM. THEREFORE, THE PARTIES AGREE THAT IN THE EVENT THAT SELLER FAILS TO DELIVER ALL OR PART OF THE SCHEDULED ENERGY OR FAILS TO RECEIVE NOMINATED AND SCHEDULED FUEL, AND SUCH FAILURE IS NOT EXCUSED BY PGE'S FAILURE TO PERFORM OR OTHERWISE UNDER THE TERMS OF THIS AGREEMENT, OR IN THE EVENT THAT PGE FAILS TO RECEIVE ALL OR PART OF THE SCHEDULED ENERGY, AND SUCH FAILURE IS NOT EXCUSED BY SELLER'S FAILURE TO PERFORM OR OTHERWISE UNDER THE TERMS OF THIS AGREEMENT, THEN, IN ADDITION TO AWARDED DAMAGES AS SET FORTH HEREIN, AN

ARBITRAL TRIBUNAL CONSTITUTED UNDER ARTICLE 23 HEREUNDER (OR PRIOR TO THE FORMATION OF THE ARBITRAL TRIBUNAL, A COURT OF COMPETENT JURISDICTION), SHALL BE EMPOWERED TO GRANT AN ORDER FOR TEMPORARY OR PERMANENT INJUNCTIVE RELIEF, INCLUDING BUT NOT LIMITED TO TEMPORARY RESTRAINING ORDERS, PRELIMINARY INJUNCTIONS, AND PERMANENT INJUNCTIONS (AND INCLUDING SPECIFIC PERFORMANCE OF THIS AGREEMENT), WITH RESPECT TO THE PARTIES' OBLIGATIONS TO DELIVER OR RECEIVE SCHEDULED ENERGY.

(b) (1) If Seller fails to deliver all or part of the Scheduled Energy or Scheduled Ancillary Services, and such failure is not excused by PGE's failure to perform under the terms of this Agreement, then Seller shall pay PGE within five (5) Business Days of invoice receipt, (i) with respect to Scheduled Energy, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Variable O&M Charge for such Scheduled Energy from the Replacement Price for such Scheduled Energy and (ii) with respect to Ancillary Services, the Replacement Price for such Scheduled Ancillary Services. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount, and (2) If Seller fails to receive nominated and scheduled Fuel and such failure is not excused under the terms of this Agreement, then Seller shall pay PGE within five (5) Business Days of invoice receipt the sum of \$__ USD.

(c) Calculation of Replacement Price. The Replacement Price in regard to Scheduled Energy or Scheduled Ancillary Services not delivered to PGE by Seller shall be the price at which PGE either:

(i) purchased for delivery at the Energy Delivery Point a replacement for any such Product in a commercially reasonable manner, adding any:

(1) costs reasonably incurred by PGE in replacing such Product; and

(2) additional transmission charges, if any, reasonably incurred by PGE in delivering such Product to the Energy Delivery Point; or

(ii) absent a purchase, then the market price at the Energy Delivery Point for such Product not delivered as determined by PGE in a commercially reasonable manner.

However, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall PGE be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Seller's liability. For purposes of this definition, PGE shall be considered to have purchased a replacement Product to the extent PGE shall have entered into one or more arrangements in a commercially reasonable manner whereby PGE repurchases its obligation to sell and deliver such Product to another party at the Energy Delivery Point.

12.2 Remedy for PGE's Failure to Receive.

(a) If PGE fails to receive all or part of the Scheduled Energy, and such failure is not excused by Seller's failure to perform under the terms of this Agreement, then PGE shall pay Seller, on the date payment would otherwise be due in respect of the Month in which the failure occurred or within five (5) Business Days of invoice receipt, an amount for such

deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price for such Scheduled Energy from the Variable O&M Charge for such Scheduled Energy. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

(b) Calculation of Sales Price. The Sales Price in regard to any Scheduled Energy not received by PGE shall be the price at which Seller:

(i) resells for delivery any such Scheduled Energy in a commercially reasonable manner, deducting from such proceeds any:

(1) costs reasonably incurred by Seller in reselling such Scheduled Energy;

(2) additional transmission charges, if any, reasonably incurred by Seller in delivering such Scheduled Energy to third party purchasers; and

(3) adding to such proceeds an appropriated portion of the Capacity Charge paid by PGE.

(ii) or, absent a sale, the market price at the Energy Delivery Point for such Scheduled Energy not received as determined by Seller in a commercially reasonable manner.

However, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Seller be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize PGE's liability.

12.3 Duty to Mitigate. Each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance of this Agreement.

12.4 Acknowledgement of the Parties. The Parties stipulate that the payment obligations set forth in this Article 12 are reasonable in light of the anticipated harm and the difficulty of estimation or calculation of actual damages and waive the right to contest such payments as an unreasonable amount or a penalty. If either Party fails to pay undisputed amounts in accordance with this Article 12 when due, the other Party shall have the right to: (i) suspend performance, including the withholding of payment otherwise due from it to the other Party, until such amounts plus interest at the Interest Rate have been paid, and/or (ii) exercise any remedy available at Law or in equity to enforce payment of such amount plus interest at the Interest Rate. With respect to the amount of such damages only, the remedy set forth in this Article 12 shall be the sole and exclusive remedy of the Parties for the failure of Seller to sell and deliver, and PGE to purchase and receive, the quantity of Scheduled Energy and Ancillary Services or for PGE's failure to deliver or Seller's failure to receive the nominated and scheduled Fuel, and all other damages and remedies are hereby waived. Disagreements with respect to the calculation of damages pursuant to this Article 12 shall be submitted to arbitration in accordance with the arbitration procedures set forth in Article 23.

12.5 Survival. The provisions of this Article 12 shall survive the expiration or termination for any reason of this Agreement.

ARTICLE XIII

PAYMENT AND NETTING

13.1 Billing Period. Unless otherwise specifically agreed upon by the Parties, the calendar month shall be the standard period for all payments under this Agreement (other than for Seller or PGE Failure under Sections 12.1 and 12.2 respectively and for termination pursuant to Section 11.4). On or before the tenth (10th) day of each month, each Party shall render to the other Party an invoice for the payment obligations, if any, incurred hereunder during the preceding month.

13.2 Timeliness of Payment. Unless otherwise agreed by the Parties, all invoices under this Agreement shall be due and payable in accordance with each Party's invoice instructions on or before the later of the twentieth (20th) day of each month, or tenth (10th) day after receipt of the invoice or, if such day is not a Business Day, then on the next Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

13.3 Disputes and Adjustments of Invoices. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice, rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twenty-four (24) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party making such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid by the Party receiving such overpayment or deducted by the Party making such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 13.3 within twenty-four (24) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the Month during which PGE has Scheduled Energy or Ancillary Services, the right to payment for such performance is deemed waived.

13.4 Netting of Payments. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date under this Agreement through netting, in which case all amounts owed by one Party to the other Party during the Monthly billing period under this Agreement, including any related damages calculated pursuant to Article 12 (unless one of the Parties elects to accelerate payment of such amounts as permitted by Section 11.2(a)), interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

13.5 Payment Obligation Absent Netting. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the Monthly billing period, including, but not limited to, any related damage amounts calculated pursuant to Article 12, interest, and payments or credits, that Party shall pay such sum in full when due.

ARTICLE XIV

LIMITATION OF REMEDIES, LIABILITY AND DAMAGES

THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS SUFFERED.

ARTICLE XV

CREDIT AND COLLATERAL REQUIREMENTS

The applicable credit and collateral requirements shall be as follows.

15.1 Financial Information. If requested by a Party, the other Party shall deliver (i) within 120 days following the end of each fiscal year, a copy of such Party's annual report containing audited consolidated financial statements for such fiscal year and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of such Party's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles, consistently applied; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the other Party diligently pursues the preparation, certification and delivery of the statements. The financial statements of a

Party shall be deemed delivered under this Section 15.1 if such statements are available at such Party's website on the World Wide Web by the dates specified in the first sentence of this Section 9.1. The website of the Parties are: For PGE, www.portlandgeneral.com; and for Counterparty _____com

15.2 Collateral Threshold and Security. The Parties agree that, in order to secure the obligations of Seller to PGE hereunder, subject to Section 15.3 below, Seller shall at PGE's request:

(a) cause its Guarantor to execute and deliver to PGE a guaranty agreement in a form and amount reasonably acceptable to PGE. Such guaranty shall be delivered to PGE by Seller contemporaneously with the execution and delivery of this Agreement, or

(b) establish and maintain an escrow account for the benefit of PGE in a form and amount reasonably acceptable to PGE. Evidence of such escrow account shall be delivered to PGE by Seller contemporaneously with the execution and delivery of this Agreement. The costs of such escrow account shall be borne by Seller, or

(c) provide a cash deposit in an amount reasonably acceptable to PGE. Such cash deposit shall be delivered to PGE contemporaneously with the execution and delivery of this Agreement, or

(d) provide a Letter of Credit in a form and amount reasonably acceptable to PGE. Such Letter of Credit shall be delivered contemporaneously with the execution and delivery of this Agreement.

15.3 Provision of Performance Assurance. If at any time and from time to time during the term of this Agreement (and notwithstanding whether an Event of Default has occurred), the Termination Payment that would be owed to PGE exceeds Seller's Collateral Threshold, then PGE, on any Business Day, may require that Seller provide Performance Assurance in an amount equal to the lesser of the Termination Payment calculated for (i) the remaining period of the Term or (ii) for a period of twenty-four (24) months commencing from the date PGE provides notice to Seller of such required Performance Assurance, (rounding upwards for any fractional amount to the next Rounding Amount), less any Performance Assurance already posted with PGE. Such Performance Assurance shall be delivered to PGE within two (2) Business Days of the date of the request for such Performance Assurance. On any Business Day (but no more frequently than weekly with respect to Letters of Credit and daily with respect to cash), Seller, at its sole cost, may request that the amount of such Performance Assurance be reduced correspondingly by the amount of such excess Termination Payment (rounding downwards for any fractional amount to the next Rounding Amount). In the event that Seller fails to provide Performance Assurance pursuant to the terms of this Article 15 within two (2) Business Days, then an Event of Default under Article 11 shall be deemed to have occurred and PGE will be entitled to the remedies set forth in Article 11 of this Agreement.

For purposes of this Section 15.3, the calculation of the Termination Payment shall be calculated pursuant to Section 11.2 by PGE as if the Transaction had been liquidated, and in addition thereto, shall include all amounts owed but not yet paid by Seller to PGE.

15.4 Grant of Security Interest/Remedies. To secure its obligations under this Agreement and to the extent Seller delivers Performance Assurance hereunder, Seller hereby grants to PGE (the "Secured Party") a present and continuing security interest in, and lien on (and

right of setoff against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, the Secured Party, and Seller agrees to take such action as PGE reasonably requires in order to perfect the Secured Party's first-priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.

Upon or at any time after the occurrence and during the continuation of an Event of Default or an Early Termination Date affecting Seller, PGE may do any one or more of the following: (i) exercise any of the rights and remedies of a Secured Party with respect to all Performance Assurance, including any such rights and remedies under law then in effect; (ii) exercise its rights of setoff against any and all property of Seller in the possession of PGE or its agent; (iii) draw on any outstanding Letter of Credit issued for its benefit; and (iv) liquidate all Performance Assurance then held by or for the benefit of PGE free from any claim or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller. PGE shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Seller's obligations under this Agreement (Seller remaining liable for any amounts owing to PGE after such application), subject to the PGE's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

15.5 Holding Performance Assurance. PGE will be entitled to hold Performance Assurance in the form of cash provided that the following conditions are satisfied: (i) PGE is not a Defaulting Party and has a Credit Rating that is BBB- or higher by S&P or Baa3 or higher by Moody's and (ii) Performance Assurance is held only in a jurisdiction within the United States.

15.6 Delivery of Performance Assurance. Upon the occurrence and during the continuance of a Material Adverse Change or an Event of Default with respect to PGE, PGE shall deliver (or cause to be delivered) not later than two (2) Business Days after request by Seller, all Performance Assurance in the form of cash provided by Seller that is in PGE's possession, to a segregated, safekeeping or custody account ("Collateral Account") within a financial institution that is a major U.S. commercial bank or a U.S. branch office of a major foreign commercial bank, with such bank having shareholder's equity of at least \$10 billion U.S. dollars and a Credit Rating of at least A1 from Moody's or A+ from S&P or as otherwise approved by Seller (which approval shall not be unreasonably withheld). The title of the Collateral Account shall indicate that the property contained therein is being held as Performance Assurance for PGE. The financial institution shall serve as custodian with respect to the Performance Assurance in the Collateral Account and shall hold such Performance Assurance for the security interest of PGE and, subject to the security interest, for the ownership of the Seller.

15.7 Performance Assurance Event of Default. Failure by PGE to comply with any of the obligations under Section 15.6 will constitute an Event of Default with respect to PGE if the failure continues for two (2) Business Days after notice of the failure is given to PGE.

15.8 Interest Rate on Cash Collateral. Performance Assurance in the form of cash held by PGE shall bear interest at the Interest Rate on Cash Collateral and shall be paid to the Seller on the third Business Day of each calendar month. "Interest Rate on Cash Collateral" means the lesser of (i) the maximum amount allowed by applicable law and (ii) the Federal Funds Rate for the holding period. The "Federal Funds Rate" means the effective Federal Funds Rate as published daily by the Federal Reserve Bank H.15 Statistical Release website for each day of the holding period. Such interest shall be calculated on the basis of the actual number of days elapsed over a year of 360 days.

ARTICLE XVI

GOVERNMENTAL CHARGES

16.1 Cooperation. Each Party shall use reasonable efforts to implement the provisions of and to administer this Agreement in accordance with the intent of the parties to minimize all taxes, so long as neither Party is materially adversely affected by such efforts.

16.2 Non-Sale Related Governmental Charges and Taxes. Seller shall pay or cause to be paid all charges or taxes imposed by any government authority ("Governmental Charges") on or with respect to the Product arising prior to the Energy Delivery Point. PGE shall pay or cause to be paid all Governmental Charges on or with respect to the Product at and from the Energy Delivery Point (other than those related to the sale of the Product and are, therefore, the responsibility of the Seller). In the event Seller is required by law or regulation to remit or pay Governmental Charges which are PGE's responsibility hereunder, PGE shall promptly reimburse Seller for such Governmental Charges. If PGE is required by law or regulation to remit or pay Governmental Charges which are Seller's responsibility hereunder, PGE may deduct the amount of any such Governmental Charges from the sums due to Seller under Article 13 of this Agreement. Nothing herein shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under the law.

16.3 Sale-related Governmental Charges and Taxes. In addition to all other payments required under this Agreement, Seller shall be solely responsible for all existing and any new sales, use, excise, ad valorem, and any other similar taxes imposed or levied by any federal, state or local governmental agency on the Energy sold and delivered hereunder (including any taxes imposed or levied with respect to the transmission of such Energy) up to the delivery of such Energy to the Delivery Point.

16.4 Indemnification. Each Party shall indemnify, release, defend and hold harmless the other Party from and against any and all liability for taxes imposed or assessed by any taxing authority with respect to the Energy sold, delivered and received hereunder that are the responsibility of such Party pursuant to this Article 16.

ARTICLE XVII

MARKET DISRUPTION

17.1 Occurrence and Remedy.

(a) If a Market Disruption Event has occurred and is continuing during the Determination Period, the Floating Price for the affected Trading Day shall be determined pursuant to the Price Source specified in this Agreement for the first Trading Day thereafter on which no Market Disruption Event exists; provided, however, if the Floating Price is not so determined within three (3) Business Days after the first Trading Day on which the Market Disruption Event occurred or existed, then the Parties shall negotiate in good faith to agree on a Floating Price (or a method for determining a Floating Price), and if the Parties have not so agreed on or before the twelfth Business Day following the first Trading Day on which the Market Disruption Event occurred or existed, then the Floating Price shall be determined in good faith by PGE, by taking the average of two or more dealer quotes from an equal number of dealers selected by each Party.

(b) For purposes of determining the relevant prices for any day, if the price published or announced on a given day and used or to be used to determine a relevant price is subsequently corrected and the correction is published or announced by the person responsible for that publication or announcement within thirty (30) days after the date of delivery, either Party may notify the other Party of (i) that correction and (ii) the amount (if any) that is payable as a result of that correction. If a Party gives notice that an amount is so payable, the Party that originally either received or retained such amount will, not later than three (3) Business Days after the effectiveness of that notice, pay, subject to any conditions precedent, to the other Party that amount, together with interest at the Interest Rate for the period from and including the day on which payment originally was (or was not) made to but excluding the day of payment of the refund or payment resulting from that correction.

(c) For the purposes of the calculation of a Floating Price, all numbers shall be rounded to three (3) decimal places. If the fourth (4th) decimal number is five (5) or greater, then the third (3rd) decimal number shall be increased by one (1) and if the fourth (4th) decimal number is less than five (5), then the third (3rd) decimal number shall remain unchanged.

ARTICLE XVIII

RATES AND TERMS BINDING; FERC STANDARD OF REVIEW

18.1 Absent the agreement of all Parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Agreement, whether proposed by a Party (to the extent that any waiver in Subsection 18.2 below is unenforceable or ineffective as to such Party), a non-party or FERC acting *sua sponte*, shall solely be the “public interest” application of the “just and reasonable” standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) and clarified by Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish 554 U.S. ___ (2008) (the “Mobile-Sierra” doctrine).

18.2 In addition, and notwithstanding the foregoing Subsection 18.1, to the fullest extent permitted by applicable law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, whether under §§ 205 and/or 206 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any section of this Agreement specifying the rate, charge, classification, or other term or condition agreed to by the Parties, it being the express intent of the Parties that, to the fullest extent permitted by applicable law, neither Party shall unilaterally seek to obtain from FERC any relief changing the rate, charge, classification, or other term or condition of this Agreement, notwithstanding any subsequent changes in applicable law or market conditions that may occur. In the event it were to be determined that applicable law precludes the Parties from waiving their rights to seek changes from FERC to their market-based power sales contracts (including entering into covenants not to do so) then this Subsection 18.2 shall not apply, provided that, consistent with the foregoing Subsection 18.1, neither Party shall seek any such changes except solely under the “public interest” application of the “just and reasonable” standard of review and otherwise as set forth in the foregoing Subsection 18.1.

ARTICLE XIX

REPRESENTATIONS AND WARRANTIES; INDEMNITY

19.1 Representations and Warranties. On the Effective Date and throughout the Term, each Party represents and warrants to the other Party that:

(a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary to perform its obligations under this Agreement;

(b) it has all regulatory authorizations necessary for it to legally perform its obligations under this Agreement;

(c) the execution, delivery and performance of this Agreement; are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order, writ, judgment, decree or other legal or regulatory determination applicable to it;

(d) this Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms subject only to any Equitable Defenses;

(e) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;

(f) there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement;

(g) no Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement;

(h) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement;

(i) it is a "forward contract merchant" within the meaning of the United States Bankruptcy Code;

(j) it has entered into this Agreement in connection with the conduct of its business and it has the capacity or ability to make or take delivery, as applicable, of all Products and Fuel referred to in this Agreement;

(k) with respect to this Agreement involving the purchase or sale of a Product, it is a producer, processor, commercial user or merchant handling the Product, and it is entering into this Agreement for purposes related to its business as such; and

(l) the material economic terms of this Agreement were subject to individual negotiation by the Parties.

19.2 Indemnity. To the fullest extent permitted by law, each Party (the "Indemnitor") hereby indemnifies and agrees to defend and hold harmless the other Party (the "Indemnitee") from and against any Indemnity Claims caused by, resulting from, relating to or arising out of any event, circumstance, act or incident first occurring or existing during the period when control of Fuel, or Product, as applicable, is vested in such Party; provided, however, that the Indemnitor shall not have any obligation to indemnify the Indemnitee from or against any Indemnity Claims caused by, resulting from, relating to or arising out of the negligence or intentional misconduct of the Indemnitee.

19.3 Additional Representation and Warranty of Seller. Seller hereby further represents and warrants to PGE that (i) Seller has the right to sell capacity, Ancillary Services and Energy from the Facility, (ii) Seller has title to the capacity, Ancillary Services and Energy sold under this Agreement, and (iii) no change has occurred in Seller's authorization to sell power at market-based rates pursuant to FERC Dockets Numbers _____.

ARTICLE XX

REQUIRED INSURANCE

Seller shall carry and maintain, or cause to be carried and maintained, no less than the insurance coverage listed in Exhibit E, in the minimum amounts indicated in Exhibit E. Such minimum amounts may be satisfied either by primary insurance or by any combination of primary and excess/umbrella insurance with insurers authorized to do business in the State of [Name] and which have an A.M. Best rating of A or better. Except as provided in Exhibit E, Seller shall maintain such coverages in effect throughout the Term. On or before the Effective Date, Seller shall cause its insurers or agents to provide PGE with certificates of insurance evidencing the policies described in Exhibit E.

ARTICLE XXI

ASSIGNMENT; BINDING EFFECT

21.1 Assignment. Neither Party shall assign this Agreement or its rights hereunder to any entity whose Credit Rating is not equal to or higher than that of such Party and is at least above BBB- by S&P and Baa3 by Moody's. No assignment may be made without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed; provided, however, either Party may, without the consent of the other Party (and without relieving itself from liability hereunder), (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements, (ii) in the case of PGE only, transfer or assign this Agreement to an Affiliate which Affiliate's Credit Rating is equal to or higher than that of PGE, or (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of its assets whose Credit Rating is equal to or higher than that of such Party; provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof

and so long as the transferring Party delivers such tax and enforceability assurance as the non-transferring Party may reasonably request.

21.2 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. No assignment or transfer permitted hereunder shall relieve the assigning or transferring Party of any of its obligations under this Agreement.

ARTICLE XXII

GOVERNING LAW

THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF OREGON, WITHOUT REGARD TO ITS PRINCIPLES OF CONFLICTS OF LAW. FOR ANY DISPUTE HELD NOT ARBITRABLE HEREUNDER EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION RELATING TO SUCH DISPUTE.

ARTICLE XXIII

ARBITRATION

Any claim, counterclaim, demand, cause of action, dispute, and controversy arising out of or relating to this Agreement or the relationship established by this Agreement, any provision hereof, the alleged breach thereof, the termination hereof, or in any way relating to the subject matter of this Agreement, involving the Parties and/or their respective representatives (for purposes of this Article 23 only, collectively the "Claims"), even though some or all of such Claims allegedly are extra-contractual in nature, in whole or in part, whether such Claims sound in contract, tort, or otherwise, at law or in equity, whether arising under state or federal law, and whether provided by statute or the common law, for damages or any other relief, shall be resolved by binding arbitration. Arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association using the expedited procedures provided therein to the extent not inconsistent with the procedures specified herein. The validity, construction, and interpretation of this agreement to arbitrate, and all procedural aspects of the arbitration conducted pursuant hereto shall be decided by the arbitrators. In deciding the substance of the Parties' Claims, the arbitrators shall apply the governing law. It is agreed that the arbitrators shall have no authority to award treble, special, indirect, consequential, exemplary or punitive damages of any type under any circumstances whether or not such damages may be available under state or federal law, or under the Federal Arbitration Act, or under the Commercial Arbitration Rules of the American Arbitration Association, the Parties hereby waiving their right, if any, to recover any such damages. In addition to damages, the arbitrators are specifically empowered to award temporary or permanent injunctive relief, including but not limited to, specific performance of any term of this Agreement. The arbitration proceeding shall be conducted in Portland, Oregon. Within thirty (30) days of the notice of initiation of the arbitration, each Party shall select one arbitrator. The two (2) arbitrators so selected shall select a third arbitrator who shall serve as chair of the arbitral tribunal, within ten (10) days of the selection of the second arbitrator. The third arbitrator shall be a person who has over eight years professional experience in electrical energy-related contractual arrangements and who has not

previously been employed by either Party and does not have a direct or indirect interest in either Party or the subject matter of the arbitration. While the third arbitrator shall be neutral, the two party-appointed arbitrators are not required to be neutral, and it shall not be grounds for removal of either of the two party-appointed arbitrators or for vacating the arbitrators' award that either of such arbitrators has past or present relationships with the Party that appointed such arbitrator. To the fullest extent permitted by law, any arbitration proceeding and the arbitrator's award shall be maintained in confidence by the Parties. The award shall be final and binding on the Parties and may be entered and enforced in any court having jurisdiction over a Party or any of its assets.

By agreeing to arbitration, the Parties do not intend to deprive any court of its jurisdiction to issue a pre-arbitral injunction, pre-arbitral attachment, or other order to prevent irreparable harm (including an order for specific performance in accordance with the provisions of Section 12.1(a) of this Agreement) or to preserve the status quo in aid of arbitration proceedings and the enforcement of any arbitral award. Without prejudice to such provisional remedies as may be available under the jurisdiction of a court, and notwithstanding any other provision of this Agreement, the arbitral tribunal shall have full authority to grant provisional remedies and to direct the Parties to request that any court modify or vacate any temporary or preliminary relief previously granted by such court, and to award damages for the failure of any Party to comply with the arbitral tribunal's orders to such effect.

ARTICLE XXIV

RECORDS AND AUDIT

24.1 Records. Each Party shall keep proper books of records and account, in which full and correct entries shall be made of all dealings or transactions of or in relation to this Agreement in accordance with generally accepted accounting principles, consistently applied.

24.2 Audit Rights. Each Party has the right, at its sole expense and during normal working hours, upon reasonable notice, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If requested, a Party shall provide to the other Party statements evidencing the quantity delivered at the Fuel Receipt Point, the Fuel Delivery Point or the Energy Delivery Point, as applicable. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twenty-four (24) months from the rendition thereof, and thereafter any objection shall be deemed waived.

ARTICLE XXV

GENERAL PROVISIONS

25.1 General. This Agreement (including the exhibits, and any written supplements hereto), any designated collateral, credit support or margin agreement or similar arrangement between the Parties constitute the entire agreement between the Parties and supersedes all prior discussions and agreements between the Parties relating to the subject matter. There are no prior or contemporaneous agreements or representations affecting the same subject matter other than those herein expressed.

This Agreement shall be considered for all purposes as prepared through the joint efforts of both Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof. Except to the extent herein provided for, no amendment or modification to this Agreement shall be enforceable unless reduced to writing and executed by both Parties.

25.2 Each Party agrees if it seeks to amend any applicable wholesale power sales tariff during the term of this Agreement, such amendment will not in any way affect remaining obligations under this Agreement without the prior written consent of the other Party. Each Party further agrees that it will not assert, or defend itself, on the basis that any applicable tariff is inconsistent with this Agreement.

25.3 Non-Waiver. No waiver by any Party hereto of any one or more defaults by the other Party in the performance of any of the provisions of this Agreement shall be construed as a waiver of any other default or defaults whether of a like kind or different nature. No failure or delay by either Party hereto in exercising any right, power, privilege, or remedy hereunder shall operate as a waiver thereof.

25.4 Severability. Any provision of this Agreement declared or rendered invalid, unlawful, or unenforceable by any applicable court of law or regulatory agency or deemed unlawful because of a statutory change (individually or collectively, such events referred to as "Regulatory Event") will not otherwise affect the remaining lawful obligations that arise under this Agreement; and provided, further, that if a Regulatory Event occurs, the Parties shall use their best efforts to reform this Agreement in order to give effect to the original intention of the Parties.

25.5 Survival. All indemnity and audit rights shall survive the termination of this Agreement. All obligations provided in this Agreement shall remain in effect, after the expiration or termination for any reason of this Agreement, for the purpose of complying herewith.

25.6 Forward Contract. The Parties acknowledge and agree that this Agreement constitutes a "forward contract" within the meaning of the United States Bankruptcy Code.

25.7 No Third Party Beneficiaries. Nothing in this Agreement shall provide any benefit to any third party or entitle any third party to any claim, cause of action, remedy or right of any kind, it being the intent of the Parties that this Agreement shall not be construed as a third party beneficiary contract.

25.8 Relationships of Parties. The Parties shall not be deemed in a relationship of partners or joint venturers by virtue of this Agreement, nor shall either Party be deemed an agent, representative, trustee or fiduciary of the other. Neither Party shall have any authority to bind the other to any agreement. This Agreement is intended to secure and provide for the services of each Party as an independent contractor.

25.9 Headings and Exhibits. The headings used for the sections and articles herein are for convenience and reference purposes only and shall in no way affect the meaning or interpretation of the provisions of this Agreement. Any and all Exhibits and Appendices referred to in this Agreement are, by such reference, incorporated herein and made a part hereof for all purposes.

ARTICLE XXVI

CONFIDENTIALITY

Neither Party shall disclose the terms or conditions of this Agreement to a third party (other than the Party's employees, lenders, counsel, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential) except to comply with any applicable law, regulation, or any exchange, Balancing Authority Area or independent system operator rule or in connection with any court or regulatory proceeding; provided, however, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation.

ARTICLE XXVII

NOTICES

27.1 Notices.

(a) All notices, requests, statements or payments shall be made to the addresses and persons specified in Exhibit F hereto. All notices, requests, statements or payments shall be made in writing except where this Agreement expressly provides that notice may be made orally. Notices required to be in writing shall be delivered by hand delivery, overnight delivery, facsimile, e-mail (so long as a copy of such e-mail notice is provided immediately thereafter by hand delivery, overnight delivery, or facsimile), or other documentary form. Notice by facsimile shall (where confirmation of successful transmission is received) be deemed to have been received on the day on which it was transmitted (unless transmitted after 5:00 p.m. at the place of receipt or on a day that is not a Business Day, in which case it shall be deemed received on the next Business Day); provided that Scheduling and Dispatch notifications and notifications of changes in availability of the Facility sent by facsimile shall be treated as received when confirmation of successful transmission is received. Notice by hand delivery or overnight delivery shall be deemed to have been received when delivered. Notice by e-mail shall be deemed to have been received when delivered, so long as a copy of such e-mail notice is provided immediately thereafter by hand delivery, overnight delivery, courier or facsimile. Notice by telephone shall be deemed to have been received at the time the call is received.

(b) A Party may change its address by providing notice of the same in accordance with the provisions of this Section 27.1.

27.2 Counterparts. This Agreement may be executed in counterparts, each of which is an original and all of which constitute one and the same instrument.

PGE RFP for Capacity Power Supply Resources (Final Draft)

IN WITNESS WHEREOF, the Parties have caused this Tolling Agreement for Wholesale Power Purchase and Sale to be duly executed by their duly authorized representatives. This Agreement shall not become effective as to either Party unless and until executed by both Parties.

PORTLAND GENERAL ELECTRIC
COMPANY

[Counterparty]

Signature: _____

Signature: _____

[Name]

Title: Vice President, Power Supply and
Strategy

Title: _____

EXHIBIT A

MAINTENANCE PROCEDURES TABLE

PROCEDURE	INTERVAL (Factored Fired Operating Hours)	OUTAGE (Hours)
Off Line Water Wash		
Non-LTSA Minor Inspection		
Combustion Inspection		
Hot Gas Path Inspection		
Major Inspection		
Minor Inspection		

As of [Date], the Facility total time (Factory Fired Operating Hours) is estimated to be _____ hours.

EXHIBIT B

TABLE B1: FACILITY TURNDOWN AND INCREMENTAL FUEL

Plant Capacity (MW)	Turndown from Full (%)	Heat Rate Adjustment (Btu/kWh)	Total Incr. Fuel/Hour (MMBtu/Hr)	Total Plant Turndown MW

TABLE B2: FACILITY START UP

Dispatch Performance				
	Cold Start	Warm Start	Hot Start	Shutdown
Shutdown Duration (Hrs) ¹				
Dispatch Notice (Hrs) ²				
Notes:				
¹ Shutdown duration prior to Facility start-up. ² Minimum required notice prior to start-up/shutdown. ³ PGE is prohibited from initiating a start if the Facility has been physically off-line for less than four hours.				

EXHIBIT C

SAMPLE SPARK SPREAD CALCULATION

$$\text{Spark Spread/MWh} = ([\text{Hub Name}] \text{ Energy Price}) - (\text{MMBtu per MWh})([\text{Name}] \text{ Gas Price}) - [\text{Variable O\&M Charge} + (\text{BPA Operating Reserves Factor})(\text{Mill Rate}) + (\text{MMBtu per MWh})([\text{Name}] \text{ Pipeline Volumetric Charge}) + (\text{MMBtu per MWh})([\text{Name}] \text{ Pipeline Fuel Use Factor})([\text{Name}] \text{ Gas Price}) + (\text{MMBtu per MWh})(\text{Gas Use Tax Rate})([\text{Name}] \text{ Gas Price})]$$

Sample Calculation

Assuming the following inputs:

Inputs			
Contractual Heat Rate		7.00	MMBtu/MW
[Hub] Price (Midpoint)		5.00	\$US/MMBtu
Northwest Pipeline Volumetric (Variable)		0.0319	\$US/MMBtu
% Fuel Charge for Gas		1.67%	
[Hub Name] Price (Midpoint)		45.00	\$US/MW (Peak)
		36.00	\$US/MW (Off Peak)
		42.00	\$US/MW (Base)
BPA Charges			
Operating Reserves			
Spinning	9.80		mills/kW
Non-Spinning	9.47		mills/kW
Avg. BPA Op. Reserves Rate		9.635	mills/kW
Thermal Op. Reserves Factor			
Spinning	3.50%		% of Generation
Non-Spinning	3.50%		% of Generation
Total Mill Rate:		7.00%	% of Generation
Variable O&M		\$ 4.00	\$US/MWh
Forecast Days on Line			
Gas Tax Use		2%	

Yields the following outputs:

Output		
Operating Reserves/MW	0.67445	\$US/MW
Volumetric Gas Charge	0.2233	\$US/MW
Fuel Charge	0.5845	\$US/MW
Gas Use Tax	0.7	\$US/MW
Variable O&M	\$ 4.00	\$US/MW
Total Variable Cost	\$ 6.18	\$US/MW
On Peak Spark Spread	\$ 3.82	\$US/MW
Run Plant?	Yes	
Implied On peak Mkt HR	9.00	

EXHIBIT D

SAMPLE AVAILABILITY CALCULATION

AA = actual availability of the Facility for such Month, measured as a percent, where:

$AA = (HRS - UAH) / HRS$, and where:

HRS = all hours of the Month

UAH = unavailable hours during the Month, which is equal to the sum of Force Majeure Hours, Forced Outage Hours and Forced Derate Hours, and where:

"Force Majeure Hours" are the hours during a Month in which the Facility is unavailable due to Force Majeure events,

"Forced Outage Hours" are the hours during a Month in which the Facility is unavailable due to a Forced Outages; and

"Forced Derate Hours" are the number of hours equal to the product of (i) the total hours during a Month in which the capacity of the Facility is reduced as a result of a Forced Derate and (ii) the positive difference between one and the Forced Derate Factor.

EXHIBIT E

FACILITY INSURANCE

The following insurance coverages and amounts shall be maintained with respect to the Facility during the Term:

General Liability Insurance

General Liability Insurance for an amount not less than US \$10,000,000.

All Risk Property Insurance

All Risk Property Insurance, including Boiler and Machinery Coverage, for an amount equal to the replacement value of all the improvements and machinery located at the Facility.

Business Interruption Insurance

Business Interruption Insurance with a deductible limit not exceeding the lesser of 60 days or US \$20,000,000.

Workers Compensation Insurance

Workers Compensation Insurance in compliance with statutory requirements of the workers' compensation laws of the State of *[Name]*.

Employers Liability Insurance

Employers Liability Insurance for an amount not less than US \$ 1,000,000 per occurrence of accident, US \$1,000,000 disease policy limit per occurrence of disease per employee.

Automobile Insurance

Automobile Insurance not less than combined single limit of \$1,000,000 per occurrence for bodily injury and damage to property covering any auto owned or hired and any non-owned auto used by Seller in the performance of its operations.

EXHIBIT F

NOTICES

Party: Portland General Electric Company (or [Counterparty or "Seller"] "PGE"), an Oregon corporation

All Notices:

Street: 121 SW Salmon Street
City: Portland, OR 97204
Attn: Power Contracts; 3WTCBR06
Phone: (503) 464-_____
Facsimile: (503) 464-2605
Duns: 00-790-9054
Federal Tax ID Number: 93-0256820

All Notices:

Street:
City:
Attn:
Phone:
Facsimile:
Duns:
Federal Tax ID Number:

Invoices:

Attn: Risk Management
Phone: (503) 464-7375
Facsimile: (503) 464-7126

Invoices:

Attn:
Phone:
Facsimile:

Scheduling:

Attn: Manager Power Coordination
Phone: (503) 464-7374
Facsimile: (503) 464-2605

Payments:

Attn: [TO BE COMPLETED]
Phone: [TO BE COMPLETED]
Facsimile: [TO BE COMPLETED]

Payments:

Attn:
Phone:
Facsimile:

Wire Transfer:

BNK: United States National Bank of Oregon-Portland
ABA: 123000220
ACCT: #153600063512
NAME: Portland General Electric Company

Wire Transfer:

BNK:
ABA:
ACCT:
NAME:

Credit and Collections:

Attn: Credit Manager
Phone: (503) 464-_____
Facsimile: (503) 464-2605

Credit and Collections:

Attn:
Phone:
Facsimile:

With additional Notices of an Event of Default to:

Attn: General Counsel
Phone: (503) 464-7822
Facsimile: (503) 464-2200

With additional Notices of an Event of Default to:

Attn:
Phone:
Facsimile:

EXHIBIT G

LIQUIDATED DAMAGES CALCULATION

If Seller fails to meet its Guaranteed Availability Factor (GAF) as required by Article 9 of the Agreement, PGE shall be entitled to Liquidated Damages (LD) calculated as follows:

- (a) During the Delivery Term, in accordance with the Agreement, Seller shall meet the GAF. In the event that the Actual Availability Factor (AAF) for the facility during a month is less than the GAF, then Seller shall pay PGE LD for the equivalent amount of hours that the GAF is greater than the AAF.
- (b) At the end of each month during the Term, Buyer shall calculate the AAF for the facility using the following formula.

$$AAF = [PH - FOH - EDH - SMH] / [PH - PMH]$$

PH = "Period Hours" are the number of hours in the month which are used in the calculation of Facility availability. This is typically 744, 720, or 672 hours per month, prorated during any partial month.

SMH = "Planned Maintenance Outage Hours" is the number of hours the plant is scheduled to be unavailable during the month because of planned maintenance.

FOH = "Full Outage Hours" are the chargeable Outage hours when the facility was not capable of producing energy or capacity due to an unplanned maintenance event or due to excess down time during a Scheduled Maintenance Outage.

EDH = "Equivalent Derated Outage Hours" are the hours of operation during the period when the facility is derated due to any cause multiplied by the quantity (1- Unit Derating Factor). The Unit Derating Factor is calculated by dividing the derated output of the facility by the capacity of the facility. For example, if the facility capacity is 100 MW and output is derated to 30MW for a single hour, then the Equivalent Derated Outage Hours to be used in the formula is

$$0.7 \text{ hours} = 1 \text{ hour} \times (1 - 30 \text{ MW} / 100 \text{ MW}).$$

Liquidated Damages will be determined for the actual hours that the plant was not available beyond the GAF compared with the Replacement price for such Energy for that hour. The Replacement Price for such Energy will be for that next incremental hour that the GAF is above the AAF. Liquidated damages will be determined by subtracting the Variable O&M Charge for such Energy that should have been available from the Replacement Price for such Energy. The calculation of the Replacement Price is as described in Section 12.1(c) of the Agreement.