

**POWER PURCHASE AGREEMENT**

**BETWEEN**

**EWAUNA SOLAR 2, LLC**

**[a new Firm Qualifying Facility with 10,000 kW Facility Capacity Rating, or Less and  
not an Intermittent Resource]**

**AND**

**PACIFICORP**

Section 1: Definitions .....	2
Section 2: Term; Commercial Operation Date .....	7
Section 3: Representations and Warranties.....	7
Section 4: Delivery of Power .....	11
Section 5: Purchase Prices .....	12
Section 6: Operation and Control .....	13
Section 7: Fuel/Motive Force.....	14
Section 8: Metering .....	15
Section 9: Billings, Computations, and Payments .....	15
Section 10: Security .....	16
Section 11: Defaults and Remedies .....	18
Section 12: Indemnification and Liability .....	20
Section 13: Insurance ( <i>Facilities over 200kW only</i> ) .....	21
Section 14: Force Majeure .....	22
Section 15: Several Obligations.....	23
Section 16: Choice of Law.....	23
Section 17: Partial Invalidity .....	23
Section 18: Waiver.....	24
Section 19: Governmental Jurisdictions and Authorizations.....	24
Section 20: Repeal of PURPA .....	24
Section 21: Successors and Assigns .....	24
Section 22: Entire Agreement.....	24
Section 23: Notices .....	25

ADDENDUM A: JURY TRIAL WAIVER

EXHIBIT A: DESCRIPTION OF SELLER'S FACILITY

EXHIBIT B: SELLER'S INTERCONNECTION FACILITIES

EXHIBIT C: REQUIRED FACILITY DOCUMENTS

EXHIBIT D-1: SELLER'S MOTIVE FORCE PLAN

EXHIBIT D-2: ENGINEER'S CERTIFICATION OF MOTIVE FORCE PLAN

EXHIBIT E: START-UP TESTING

EXHIBIT F: SELLER AUTHORIZATION TO RELEASE GENERATION DATA TO  
PACIFICORP

EXHIBIT G: SCHEDULE 37 AND PRICING SUMMARY TABLE

EXHIBIT H: GREEN TAG ATTESTATION AND BILL OF SALE

## POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT, entered into this 5<sup>th</sup> day of June, 2015, is between Ewauna Solar 2, LLC, "**Seller**" and PacifiCorp (d/b/a Pacific Power & Light Company), an Oregon corporation acting in its regulated utility capacity, "**PacifiCorp**." (Seller and PacifiCorp are referred to individually as a "**Party**" or collectively as the "**Parties**").

### RECITALS

A. Seller intends to construct, own, operate and maintain the **Ewauna 2** solar photo voltaic facility for the generation of electric power, including interconnection facilities, located in Klamath Falls, Klamath County, Oregon with a Facility Capacity Rating of 2,900 -kilowatts (kW) as further described in **Exhibit A** and **Exhibit B** ("**Facility**"); and

B. Seller intends to commence delivery of Net Output under this Agreement, for the purpose of Start-up Testing, on November 30, 2017 ("**Scheduled Initial Delivery Date**"); and

C. Seller intends to operate the Facility as a Qualifying Facility, commencing commercial operations on December 31, 2017 ("**Scheduled Commercial Operation Date**"); and

D. Seller estimates that the average annual Net Energy to be delivered by the Facility to PacifiCorp is 7,240,000 kilowatt-hours (kWh), which amount of energy PacifiCorp will include in its resource planning; and

E. Seller shall (choose one)  sell all Net Output to PacifiCorp and purchase its full electric requirements from PacifiCorp  sell Net Output surplus to its needs at the Facility site to PacifiCorp and purchase partial electric requirements service from PacifiCorp, in accordance with the terms and conditions of this Agreement; and

F. This Agreement is a "New QF Contract" under the PacifiCorp Inter-Jurisdictional Cost Allocation Revised Protocol.

## AGREEMENT

NOW, THEREFORE, the Parties mutually agree as follows:

### SECTION 1: DEFINITIONS

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

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

1.2 **“Average Annual Generation”** shall have the meaning set forth in Section 4.2.

1.3 **“Billing Period”** means, unless otherwise agreed to, the time period between PacifiCorp's consecutive readings of its power purchase billing meter at the Facility in the normal course of PacifiCorp's business. Such periods typically range between twenty-seven (27) and thirty-four (34) days and may not coincide with calendar months.

1.4 **“CAMD”** means the Clean Air Markets Division of the Environmental Protection Agency or successor administrator, or any state or federal entity given jurisdiction over a program involving transferability of Green Tags.

1.5 **“Commercial Operation Date”** means the date that the Facility is deemed by PacifiCorp to be fully operational and reliable, which shall require, among other things, that all of the following events have occurred:

1.5.1 PacifiCorp has received a certificate addressed to PacifiCorp from a Licensed Professional Engineer stating (a) the Facility Capacity Rating of the Facility at the anticipated Commercial Operation Date; and (b) that the Facility is able to generate electric power reliably in amounts required by this Agreement and in accordance with all other terms and conditions of this Agreement;

1.5.2 The Facility has completed Start-Up Testing;

1.5.3 PacifiCorp has received a certificate addressed to PacifiCorp from a Licensed Professional Engineer stating that, (a), in accordance with the Generation Interconnection Agreement, all required interconnection facilities have been constructed, all required interconnection tests have been completed and the Facility is physically interconnected with PacifiCorp's electric system, or (b) if the Facility is interconnected with another electric utility that will wheel Net Output to PacifiCorp, all required interconnection facilities have been completed and tested and are in place to allow for such wheeling;

1.5.4 PacifiCorp has received a certificate addressed to PacifiCorp from an attorney in good standing in the State of Oregon stating that Seller has obtained all Required Facility Documents and if requested by PacifiCorp, in writing, has provided copies of any or all such requested Required Facility Documents. (Facilities over 200 kW only).

1.5.5 Seller has complied with the security requirements of Section 10.

1.5.6 PacifiCorp has received an executed copy of **Exhibit F**—Seller’s Interconnection Request.

1.6 “**Commission**” means the Oregon Public Utilities Commission.

1.7 “**Contract Price**” means the applicable price for capacity or energy, or both capacity and energy, stated in Sections 5.1, 5.2, and 5.3.

1.8 “**Contract Year**” means a twelve (12) month period commencing at 00:00 hours Pacific Prevailing Time (“PPT”) on January 1 and ending on 24:00 hours PPT on December 31; *provided, however*, that the first Contract Year shall commence on the Commercial Operation Date and end on the next succeeding December 31, and the last Contract Year shall end on the Termination Date.

1.9 “**Credit Requirements**” means a long-term credit rating (corporate or long-term senior unsecured debt) of (1) “Baa3” or greater by Moody’s, or (2) “BBB-” or greater by S&P, or such other indicia of creditworthiness acceptable to PacifiCorp in its reasonable judgment.

1.10 “**Default Security**”, unless otherwise agreed to by the Parties in writing, means the amount of either a Letter of Credit or cash placed in an escrow account sufficient to replace twelve (12) average months of replacement power costs over the term of this Agreement, and shall be calculated by taking the average, over the term of this Agreement, of the positive difference between (a) the monthly forward power prices at **Mid-Columbia** (as determined by PacifiCorp in good faith using information from a commercially reasonable independent source), multiplied by 110%, minus (b) the average of the Fixed Avoided Cost Prices specified in Schedule 37, and multiplying such difference by (c) the Minimum Annual Delivery; provided, however, the amount of Default Security shall in no event be less than the amount equal to the payments PacifiCorp would make for three (3) average months based on Seller’s average monthly volume over the term of this Agreement and utilizing the average Fixed Avoided Cost Prices specified in Schedule 37. Such amount shall be fixed at the Effective Date of this Agreement.

1.11 “**Effective Date**” shall have the meaning set forth in Section 2.1.

1.12 “**Energy Delivery Schedule**” shall have the meaning set forth in Section 4.5.

1.13 “**Environmental Attributes**” shall mean any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical, or other substance to the air, soil or water.

Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil, or water such as (subject to the foregoing) sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), and other pollutants; and (2) any avoided emissions of carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere.

1.14 “**Excess Output**” shall mean any increment of Net Output delivered at a rate, on an hourly basis, exceeding the Facility Capacity Rating.

1.15 “**Facility**” shall have the meaning set forth in Recital A.

1.16 “**Facility Capacity Rating**” means the sum of the Nameplate Capacity Ratings for all generators comprising the Facility.

1.17 “**FERC**” means the Federal Energy Regulatory Commission, or its successor.

1.18 “**Generation Interconnection Agreement**” means the generation interconnection agreement to be entered into separately between Seller and PacifiCorp’s transmission or distribution department, as applicable, providing for the construction, operation, and maintenance of PacifiCorp’s interconnection facilities required to accommodate deliveries of Seller’s Net Output if the Facility is to be interconnected directly with PacifiCorp rather than another electric utility.

1.19 “**Green Tags**” means (1) the Environmental Attributes associated with all Net Output, together with (2) all WREGIS Certificates; and (3) the Green Tag Reporting Rights associated with such energy, Environmental Attributes and WREGIS Certificates, however commercially transferred or traded under any or other product names, such as "Renewable Energy Credits," "Green-e Certified", or otherwise. One (1) Green Tag represents the Environmental Attributes made available by the generation of one (1) MWh of energy from the Facility. Provided however, that “Green Tags” do not include Environmental Attributes that are greenhouse gas offsets from methane capture not associated with the generation of electricity and not needed to ensure that there are zero net emissions associated with the generation of electricity.

1.20 “**Green Tag Reporting Rights**” means the exclusive right of a purchaser of Green Tags to report exclusive ownership of Green Tags in compliance with federal or state law, if applicable, and to federal or state agencies or other parties at such purchaser's discretion, and include reporting under Section 1605(b) of the Energy Policy Act of 1992, or under any present or future domestic, international, or foreign emissions trading program or renewable portfolio standard.

1.21 “**Letter of Credit**” means an irrevocable standby letter of credit, from an institution that has a long-term senior unsecured debt rating of “A” or greater from S&P or “A2” or greater from Moody’s, in a form reasonably acceptable to PacifiCorp, naming PacifiCorp as the party entitled to demand payment and present draw requests thereunder.

1.22 “**Licensed Professional Engineer**” means a person acceptable to PacifiCorp in its reasonable judgment who is licensed to practice engineering in the state of Oregon, who has no economic relationship, association, or nexus with the Seller, and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made.

1.23 “**Material Adverse Change**” means the occurrence of any event of default under any material agreement to which Seller is a party and of any other development, financial or otherwise, which would have a material adverse effect on Seller, the Facility or Seller’s ability to develop, construct, operate, maintain or own the Facility as provided in this Agreement

1.24 “**Maximum Annual Delivery**” shall have the meaning set forth in Section 4.3.

1.25 “**Minimum Annual Delivery**” shall have the meaning set forth in Section 4.3.

1.26 “**Nameplate Capacity Rating**” means the full-load electrical quantities assigned by the designer to a generator and its prime mover or other piece of electrical equipment, such as transformers and circuit breakers, under standardized conditions, expressed in amperes, kilovoltamperes, kilowatts, volts, or other appropriate units. Usually indicated on a nameplate attached to the individual machine or device.

1.27 “**Net Energy**” means the energy component, in kWh, of Net Output.

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

1.29 “**Net Replacement Power Costs**” shall have the meaning set forth in Section 11.4.1.

1.30 “**Off-Peak Hours**” means all hours of the week that are not On-Peak Hours.

1.31 “**On-Peak Hours**” means the hours between 6 a.m. Pacific Prevailing Time (“**PPT**”) and 10 p.m. PPT, Mondays through Saturdays, excluding all hours occurring on holidays as provided in Schedule 37.

1.32 “**Point of Delivery**” means the high side of the Seller’s step-up transformer(s) located at the point of interconnection between the Facility and PacifiCorp’s distribution/transmission system, as specified in the Generation Interconnection Agreement, or, if the Facility is not interconnected directly with PacifiCorp, the point at which another utility will deliver the Net Output to PacifiCorp as specified in **Exhibit B**.

1.33 “**Prime Rate**” means the publicly announced prime rate for commercial loans to large businesses with the highest credit rating in the United States in effect from time to time

quoted by Citibank, N.A. If a Citibank, N.A. prime rate is not available, the applicable Prime Rate shall be the announced prime rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, New York, selected by the Party to whom interest based on the Prime Rate is being paid.

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

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

1.36 “**Renewable Resource Deficiency Period**” means the period from 2024 through 2040.

1.37 “**Renewable Resource Sufficiency Period**” means the period from 2014 through 2023.

1.38 “**Replacement Price**” means the price at which PacifiCorp, acting in a commercially reasonable manner, purchases for delivery at the Point of Delivery a replacement for any Net Output that Seller is required to deliver under this Agreement plus (i) costs reasonably incurred by PacifiCorp in purchasing such replacement Net Output, and (ii) additional transmission charges, if any, reasonably incurred by PacifiCorp in causing replacement energy to be delivered to the Point of Delivery. If PacifiCorp elects not to make such a purchase, the Replacement Price shall be the market price at the Mid-Columbia trading hub for such energy not delivered, plus any additional cost or expense incurred as a result of Seller’s failure to deliver, as determined by PacifiCorp in a commercially reasonable manner (but not including any penalties, ratcheted demand or similar charges).

1.39 “**Required Facility Documents**” means all licenses, permits, authorizations, and agreements, including a Generation Interconnection Agreement or equivalent, necessary for construction, operation, and maintenance of the Facility consistent with the terms of this Agreement, including without limitation those set forth in **Exhibit C**.

1.40 “**Schedule 37**” means the Schedule 37 of Pacific Power & Light Company’s Commission-approved tariffs, providing pricing options for Qualifying Facilities of 10,000 kW or less, which is in effect on the Effective Date of this Agreement. A copy of that Schedule 37 is attached as **Exhibit G**.

1.41 “**Scheduled Commercial Operation Date**” shall have the meaning set forth in Recital C.



1.42 “**Scheduled Initial Delivery Date**” shall have the meaning set forth in Recital B.

1.43 “**Start-Up Testing**” means the completion of required factory and start-up tests as set forth in **Exhibit E** hereto.

1.44 “**Termination Date**” shall have the meaning set forth in Section 2.4.

1.45 “**WREGIS**” means the Western Renewable Energy Generation Information System or successor organization in case WREGIS is ever replaced.

1.46 “**WREGIS Certificate**” means “Certificate” as defined by WREGIS in the WREGIS Operating Rules dated July 15, 2013.

1.47 “**WREGIS Operating Rules**” means the operating rules and requirements adopted by WREGIS, dated July 15, 2013.

## **SECTION 2: TERM; COMMERCIAL OPERATION DATE**

2.1 This Agreement shall become effective after execution by both Parties (“**Effective Date**”).

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

By March 1, 2016, Seller shall provide PacifiCorp with a copy of an executed Generation Interconnection Agreement, or wheeling agreement, as applicable, which shall be consistent with all material terms and requirements of this Agreement.

Upon completion of construction, Seller, in accordance with Section 6.1, shall provide PacifiCorp with an As-built Supplement acceptable to PacifiCorp;

By the date thirty (30) days after the Effective Date, Seller shall provide Default Security required under Sections 10.1 or 10.2, as applicable.

2.3 Seller shall cause the Facility to achieve Commercial Operation on or before the Scheduled Commercial Operation Date. If Commercial Operation occurs after the Scheduled Commercial Operation Date, Seller shall be in default, and liable for delay damages specified in Section 11.

2.4 Except as otherwise provided herein, this Agreement shall terminate on November 30, 2037 (“**Termination Date**”).

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

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

- 3.1.1 PacifiCorp is duly organized and validly existing under the laws of the State of Oregon.
  - 3.1.2 PacifiCorp has the requisite corporate power and authority to enter into this Agreement and to perform according to the terms of this Agreement.
  - 3.1.3 PacifiCorp has taken all corporate actions required to be taken by it to authorize the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby.
  - 3.1.4 The execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on PacifiCorp or any valid order of any court, or any regulatory agency or other body having authority to which PacifiCorp is subject.
  - 3.1.5 This Agreement is a valid and legally binding obligation of PacifiCorp, enforceable against PacifiCorp in accordance with its terms (except as the enforceability of this Agreement may be limited by bankruptcy, insolvency, bank moratorium or similar laws affecting creditors' rights generally and laws restricting the availability of equitable remedies and except as the enforceability of this Agreement may be subject to general principles of equity, whether or not such enforceability is considered in a proceeding at equity or in law).
- 3.2 Seller represents, covenants, and warrants to PacifiCorp that:
- 3.2.1 Seller is a limited liability company duly organized and validly existing under the laws of Oregon.
  - 3.2.2 Seller has the requisite power and authority to enter into this Agreement and to perform according to the terms hereof, including all required regulatory authority to make wholesale sales from the Facility.
  - 3.2.3 Seller has taken all actions required to authorize the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby.
  - 3.2.4 The execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on Seller or any valid order of any court, or any regulatory agency or other body having authority to which Seller is subject.
  - 3.2.5 This Agreement is a valid and legally binding obligation of Seller, enforceable against Seller in accordance with its terms (except as the enforceability of this Agreement may be limited by bankruptcy,

insolvency, bank moratorium or similar laws affecting creditors' rights generally and laws restricting the availability of equitable remedies and except as the enforceability of this Agreement may be subject to general principles of equity, whether or not such enforceability is considered in a proceeding at equity or in law).

- 3.2.6 The Facility is and shall for the term of this Agreement continue to be a QF, and Seller will operate the Facility in a manner consistent with its FERC QF certification. Seller has provided to PacifiCorp the appropriate QF certification (which may include a FERC self-certification) prior to PacifiCorp's execution of this Agreement. At any time during the term of this Agreement, PacifiCorp may require Seller to provide PacifiCorp with evidence satisfactory to PacifiCorp in its reasonable discretion that the Facility continues to qualify as a QF under all applicable requirements and, if PacifiCorp is not satisfied that the Facility qualifies for such status, a written legal opinion from an attorney who is (a) in good standing in the state of Oregon, and (b) who has no economic relationship, association or nexus with the Seller or the Facility, stating that the Facility is a QF and providing sufficient proof (including copies of all documents and data as PacifiCorp may request) demonstrating that Seller has maintained and will continue to maintain the Facility as a QF.
- 3.2.7 Compliance with Ownership Requirements in Commission Proceedings No. UM 1129 and UM 1610. Seller will not make any changes in its ownership, control, or management during the term of this Agreement that would cause it to not be in compliance with the definition of a Small Cogeneration Facility or Small Power Production Facility provided in PacifiCorp's Schedule 37 tariff approved by the Commission at the time this Agreement is executed. Seller will provide, upon request by PacifiCorp not more frequently than every 36 months, such documentation and information as reasonably may be required to establish Seller's continued compliance with such Definition. PacifiCorp agrees to take reasonable steps to maintain the confidentiality of any portion of the above-described documentation and information that the Seller identifies as confidential except PacifiCorp will provide all such confidential information the Public Utility Commission of Oregon upon the Commission's request. These ownership requirements, as well as the dispute resolution provision governing any disputes over a QF's entitlement to the standard rates and standard contract with respect to the requirements, are detailed in Schedule 37.
- i. Additional Seller Creditworthiness Warranties. Seller need not post security under Section 10 for PacifiCorp's benefit in the event of Seller default, provided that Seller warrants all of the following:

- a. Neither the Seller nor any of its principal equity owners is or has within the past two (2) years been the debtor in any bankruptcy proceeding, is unable to pay its bills in the ordinary course of its business, or is the subject of any legal or regulatory action, the result of which could reasonably be expected to impair Seller's ability to own and operate the Facility in accordance with the terms of this Agreement.
- b. Seller has not at any time defaulted in any of its payment obligations for electricity purchased from PacifiCorp.
- c. Seller is not in default under any of its other agreements and is current on all of its financial obligations, including construction related financial obligations.
- d. Seller owns, and will continue to own for the term of this Agreement, all right, title and interest in and to the Facility, free and clear of all liens and encumbrances other than liens and encumbrances related to third-party financing of the Facility.
- e. **[Applicable only to Seller's with a Facility having a Facility Capacity Rating greater than 3,000 kW]** Seller meets the Credit Requirements.

Seller hereby declares (Seller initial one only):

- X   Seller affirms and adopts all warranties of this Section 3.2.8, and therefore is not required to post security under Section 10; or
- Seller does not affirm and adopt all warranties of this Section 3.2.8, and therefore Seller elects to post the security specified in Section 10.

3.3 Notice. If at any time during this Agreement, any Party obtains actual knowledge of any event or information which would have caused any of the representations and warranties in this Section 3 to have been materially untrue or misleading when made, such Party shall provide the other Party with written notice of the event or information, the representations and warranties affected, and the action, if any, which such Party intends to take to make the representations and warranties true and correct. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

## **SECTION 4: DELIVERY OF POWER**

4.1 Commencing on the Commercial Operation Date, unless otherwise provided herein, Seller will sell and PacifiCorp will purchase (a) all Net Output from the Facility delivered to the Point of Delivery and (b) all Green Tags associated with the output or otherwise resulting from the generation of energy by the Facility (which shall come from the Facility and from no other source), for the periods during which the Green Tags are required to be transferred to PacifiCorp under the terms of Section 5.5.

4.2 Average Annual Generation. Seller estimates that the Facility will generate, on average, 7,240,000 kWh per Contract Year (“**Average Annual Generation**”). Seller may, upon at least six months prior written notice, modify the Average Annual Generation every other Contract Year.

4.3 Minimum and Maximum Delivery. Seller shall make available from the Facility a minimum of 3,981,000 kWh of Net Output during each Contract Year, provided that such minimum for the first Contract Year shall be reduced pro rata to reflect the Commercial Operation Date, and further provided that such minimum Net Output shall be reduced on a pro-rata basis for any periods during a Contract Year that the Facility was prevented from generating electricity for reasons of Force Majeure (“**Minimum Annual Delivery**”). Seller estimates, for informational purposes, that it will make available from the Facility a maximum of 8,947,000 kWh of Net Output during each Contract Year (“**Maximum Annual Delivery**”). Seller’s basis for determining the Minimum and Maximum Annual Delivery amounts is set forth in **Exhibit D**.

4.4 Deliveries in Deficit of Delivery Obligation. Seller’s failure to deliver the Minimum Annual Delivery in any Contract Year (prorated if necessary) shall be a default, and Seller shall be liable for damages in accordance with Section 11.

4.5 Energy Delivery Schedule. Seller has provided a monthly schedule of Net Energy expected to be delivered by the Facility (“**Energy Delivery Schedule**”), incorporated into **Exhibit D**.

4.6 Transfer of Title to Green Tags; Documentation of Green Tags Transfers. Subject to the Green Tags ownership as defined in Section 5.5, title to the Green Tags shall pass from Seller to PacifiCorp immediately upon the generation of the Net Output at the Facility that gives rise to such Green Tags. The Parties shall execute all additional documents and instruments reasonably requested by PacifiCorp in order to further document the transfer of the Green Tags to PacifiCorp or its designees. Without limiting the generality of the foregoing, Seller shall, on or before the 10th day of each month, deliver to PacifiCorp a Green Tags Attestation and Bill of Sale in the form attached as **Exhibit H** for all Green Tags delivered to PacifiCorp hereunder in the preceding month, along with any attestation that is then-current with the Center for Resource Solution's Green-e program or successor organization in case the Center for Resource Solutions is replaced by another party over the life of the contract. Seller, at its own cost and expense, shall register with, pay all fees required by, and comply with, all reporting and other requirements of WREGIS relating to the Facility or Green Tags, except that when Seller is required to transfer Green Tags to PacifiCorp under Section 5.5, PacifiCorp will pay all fees

required by WREGIS relating to the Green Tags. Seller shall ensure that the Facility will participate in and comply with, during the Term, all aspects of WREGIS. Seller will use WREGIS as required pursuant to the WREGIS Operating Rules to effectuate the transfer of WREGIS Certificates to PacifiCorp, and transfer such WREGIS Certificates to PacifiCorp, in accordance with WREGIS reporting protocols and WREGIS Operating Rules. Seller may either elect to enter into a Qualified Reporting Entity Services Agreement with PacifiCorp in a form approved by PacifiCorp, enter into a Qualified Reporting Entity Services Agreement with a third-party authorized to act as a Qualified Reporting Entity, or elect to act as its own WREGIS-defined Qualified Reporting Entity. Seller shall promptly give PacifiCorp copies of all documentation it submits to WREGIS. Further, in the event of the promulgation of a scheme involving Green Tags administered by CAMD, upon notification by CAMD that any transfer contemplated by this Agreement will not be recorded, the Parties shall promptly cooperate in taking all reasonable actions necessary so that such transfers can be recorded. Seller shall not report under Section 1605(b) of the Energy Policy Act of 1992 or under any applicable program that any of the Green Tags purchased by PacifiCorp hereunder belong to any person other than PacifiCorp. Without limiting the generality of PacifiCorp's ownership of the Green Tag Reporting Rights, PacifiCorp may report under such program that such Green Tags purchased hereunder belong to it. Each Party shall promptly give the other Party copies of all documents it submits to the CAMD to effectuate any transfer. Seller shall reasonably cooperate in any registration by PacifiCorp of the Facility in the renewable portfolio standard or equivalent program in all such further states and programs in which PacifiCorp may wish to register or maintain registration of the Facility by providing copies of all such information as PacifiCorp reasonably required for such registration.

**SECTION 5: PURCHASE PRICES**

5.1 Seller shall have the option to select one of three pricing options: Standard Fixed Avoided Cost Prices ("Fixed Price Standard"), Renewable Fixed Avoided Cost Prices ("Fixed Price Renewable"), or Firm Market Indexed Avoided Cost Prices ("Firm Electric Market"), as published in Schedule 37. Once an option is selected the option will remain in effect for the duration of the Facility's contract. Seller has selected the following (Seller to initial one):

- Fixed Price Standard
- Fixed Price Renewable
- Firm Electric Market

A copy of Schedule 37, and a table summarizing the purchase prices under the pricing option selected by Seller, is attached as **Exhibit G**.

5.2 (Fixed Price Standard Seller Only). In the event Seller elects the Fixed Price Standard pricing method, PacifiCorp shall pay Seller the applicable On-Peak and Off-Peak rates specified in **Schedule 37** during the first fifteen (15) years after the Scheduled Initial Delivery Date. Thereafter, PacifiCorp shall pay Seller Firm Electric Market.

5.3 (Fixed Price Renewable Seller Only). In the event Seller elects the Fixed Price Renewable pricing method, PacifiCorp shall pay Seller the applicable On-Peak and Off-Peak

rates specified in **Schedule 37** during the first fifteen (15) years after the Scheduled Initial Delivery Date. Thereafter, PacifiCorp shall pay Seller Firm Electric Market.

5.4 For all Excess Output and for all Net Output delivered prior to the Commercial Operation Date, PacifiCorp shall pay Seller 93 percent of a blended market index price for day-ahead firm energy at MidColumbia, California Oregon Border (COB), Four Corners and Palo Verde market indices as reported by the Intercontinental Exchange (ICE), for the On-Peak and Off-Peak periods. PacifiCorp shall document its calculation of the blended rate, upon request, to Seller. Such payment will be accomplished by adjustments pursuant to Section 9.2.

#### 5.5 Environmental Attributes

5.5.1 (Fixed Price Standard Seller Only): PacifiCorp waives any claim to Seller's ownership of Environmental Attributes under this Agreement throughout the Term.

5.5.2 (Fixed Price Renewable Seller Only): PacifiCorp waives any claim to Seller's ownership of Environmental Attributes during the Renewable Resource Sufficiency Period, and any period within the Term of this Agreement after completion of the first fifteen (15) years after the Scheduled Initial Delivery Date. Subject to the foregoing, Seller shall transfer the Green Tags to PacifiCorp in accordance with Section 4.5 during the Renewable Resource Deficiency Period.

### **SECTION 6: OPERATION AND CONTROL**

6.1 As-Built Supplement. Upon completion of initial (and any subsequent) construction of the Facility, Seller shall provide PacifiCorp an As-built Supplement to specify the actual Facility as built. The As-built Supplement must be reviewed and approved by PacifiCorp, which approval shall not unreasonably be withheld, conditioned or delayed.

6.2 Incremental Utility Upgrades. At start-up (and at any other time upon at least six months' prior written notice), Seller may increase Net Output, if such increase is due to normal variances in estimated versus actual performance, changed Facility operations, or improvements in Facility efficiency. Seller may not increase Net Output under this Agreement by installing additional generating units. In the case of substantial upgrades, PacifiCorp may require Seller to comply with Section 3.2.8(e) (in the event that the Facility upgrade causes the Facility Capacity Rating to exceed 3,000 kW) and increase its Minimum Annual Delivery obligation in Section 4.3 (if appropriate). PacifiCorp may also update Seller's security obligation (if applicable). So long as the Facility Capacity Rating after the upgrade is 10,000 kW or less, Seller will continue to receive the Contract Price for the Net Output, as set forth in Sections 5.1, 5.2, and 5.3 of this Agreement. If Seller increases the Facility Capacity Rating above 10,000 kW, then (on a going forward basis) PacifiCorp shall pay Seller the Contract Price for the fraction of total Net Output equal to 10,000 kW divided by the Facility Capacity Rating of the upgraded Facility. For the remaining fraction of Net Output, PacifiCorp and Seller shall agree to a new negotiated rate. Seller shall be responsible for ensuring that any planned increase in the Facility Capacity Rating

or the maximum instantaneous capacity of the Facility complies with Seller's Generation Interconnection Agreement and any other agreements with PacifiCorp.

6.3 Seller shall operate and maintain the Facility in a safe manner in accordance with the Generation Interconnection Agreement (if applicable), Prudent Electrical Practices and in accordance with the requirements of all applicable federal, state and local laws and the National Electric Safety Code as such laws and code may be amended from time to time. PacifiCorp shall have no obligation to purchase Net Output from the Facility to the extent the interconnection between the Facility and PacifiCorp's electric system is disconnected, suspended or interrupted, in whole or in part, pursuant to the Generation Interconnection Agreement, or to the extent generation curtailment is required as a result of Seller's non-compliance with the Generation Interconnection Agreement. PacifiCorp shall have the right to inspect the Facility to confirm that Seller is operating the Facility in accordance with the provisions of this Section 6.3 upon reasonable notice to Seller. Seller is solely responsible for the operation and maintenance of the Facility. PacifiCorp shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility.

6.4 Scheduled Outages. Seller may cease operation of the entire Facility or individual units, if applicable, for maintenance or other purposes. Seller shall exercise its best efforts to notify PacifiCorp of planned outages at least ninety (90) days prior, and shall reasonably accommodate PacifiCorp's request, if any, to reschedule such planned outage in order to accommodate PacifiCorp's need for Facility operation.

6.5 Unplanned Outages. In the event of an unscheduled outage or curtailment exceeding twenty-five (25) percent of the Facility Capacity Rating (other than curtailments due to lack of motive force), Seller immediately shall notify PacifiCorp of the necessity of such unscheduled outage or curtailment, the time when such has occurred or will occur and the anticipated duration. Seller shall take all reasonable measures and exercise its best efforts to avoid unscheduled outage or curtailment, to limit the duration of such, and to perform unscheduled maintenance during Off-Peak hours.

## **SECTION 7: FUEL/MOTIVE FORCE**

Prior to the Effective Date of this Agreement, Seller provided to PacifiCorp a fuel or motive force plan acceptable to PacifiCorp in its reasonable discretion and attached hereto as **Exhibit D-1**, together with a certification from a Licensed Professional Engineer to PacifiCorp attached hereto as **Exhibit D-2**, certifying that the implementation of the fuel or motive force plan can reasonably be expected to provide fuel or motive force to the Facility for the duration of this Agreement adequate to generate power and energy in quantities necessary to deliver the Minimum Annual Delivery set forth by Seller in Section 4.



## **SECTION 8: METERING**

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

8.2 Metering shall be performed at the location and in a manner consistent with this Agreement and as specified in the Generation Interconnection Agreement, or, if the Net Output is to be wheeled to PacifiCorp by another utility, metering will be performed in accordance with the terms of PacifiCorp's interconnection agreement with such other utility. All quantities of energy purchased hereunder shall be adjusted to account for electrical losses, if any between the point of metering and the Point of Delivery, so that the purchased amount reflects the net amount of energy flowing into PacifiCorp's system at the Point of Delivery.

8.3 PacifiCorp shall periodically inspect, test, repair and replace the metering equipment as provided in the Generation Interconnection Agreement, if applicable. If the Net Output is to be wheeled to PacifiCorp by another utility, meter inspection, testing, repair and replacement will be performed in accordance with the terms of PacifiCorp's interconnection agreement with such utility. If any of the inspections or tests discloses an error exceeding two percent (2%), either fast or slow, proper correction, based upon the inaccuracy found, shall be made of previous readings for the actual period during which the metering equipment rendered inaccurate measurements if that period can be ascertained. If the actual period cannot be ascertained, the proper correction shall be made to the measurements taken during the time the metering equipment was in service since last tested, but not exceeding three (3) Billing Periods, in the amount the metering equipment shall have been shown to be in error by such test. Any correction in billings or payments resulting from a correction in the meter records shall be made in the next monthly billing or payment rendered following the repair of the meter.

## **SECTION 9: BILLINGS, COMPUTATIONS, AND PAYMENTS**

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

9.2 Corrections. PacifiCorp shall have up to eighteen months to adjust any payment made pursuant to Section 9.1. In the event PacifiCorp determines it has overpaid Seller (for Excess Output or otherwise), PacifiCorp may adjust Seller's future payment accordingly in order to recapture any overpayment in a reasonable time.

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

## SECTION 10: SECURITY

Unless Seller has adopted the creditworthiness warranties contained in Section 3.2.8, Seller must provide security (if requested by PacifiCorp) in the form of a cash escrow, letter of credit, senior lien, or step-in rights. Seller hereby elects to provide, in accordance with the applicable terms of this Section 10, the following security (Seller to initial one selection only):

\_\_\_\_\_ Cash Escrow

\_\_\_\_\_ Letter of Credit

\_\_\_\_\_ Senior Lien

\_\_\_\_\_ Step-in Rights

  X   Seller has adopted the Creditworthiness Warranties of Section 3.2.8.

In the event Seller's obligation to post default security (under Section 10 or Section 11.1.4) arises solely from Seller's delinquent performance of construction-related financial obligations, upon Seller's request, PacifiCorp will excuse Seller from such obligation in the event Seller has negotiated financial arrangements with its construction lenders that mitigate Seller's financial risks to PacifiCorp's reasonable satisfaction.

### **[SKIP THIS SECTION 10.1 UNLESS SELLER SELECTED CASH ESCROW ALTERNATIVE]**

10.1 Cash Escrow Security. Seller shall deposit in an escrow account established by PacifiCorp in a banking institution acceptable to both Parties, the Default Security. Such sum shall earn interest at the rate applicable to money market deposits at such banking institution from time to time. To the extent PacifiCorp receives payment from the Default Security, Seller shall, within fifteen (15) days, restore the Default Security as if no such deduction had occurred.

### **[SKIP THIS SECTION 10.2 UNLESS SELLER SELECTED LETTER OF CREDIT ALTERNATIVE]**

10.2 Letter of Credit Security. Seller shall post and maintain in an amount equal to the Default Security: (a) a guaranty from a party that satisfies the Credit Requirements, in a form acceptable to PacifiCorp in its discretion, or (b) a Letter of Credit in favor of PacifiCorp. To the extent PacifiCorp receives payment from the Default Security, Seller shall, within fifteen (15) days, restore the Default Security as if no such deduction had occurred.

### **[SKIP THIS SECTION 10.3 UNLESS SELLER SELECTED SENIOR LIEN ALTERNATIVE]**

10.3 Senior Lien. Before the Scheduled Commercial Operation Date, Seller shall grant PacifiCorp a senior, unsubordinated lien on the Facility and its assets as security for performance of this Agreement by executing, acknowledging and delivering a security agreement and a deed of trust or a mortgage, in a recordable form (each in a form satisfactory to PacifiCorp in the reasonable exercise of its discretion). Pending delivery of the senior lien to PacifiCorp, Seller

shall not cause or permit the Facility or its assets to be burdened by liens or other encumbrances that would be superior to PacifiCorp's, other than workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.

**[SKIP THIS SECTION 10.4 UNLESS SELLER SELECTED STEP-IN RIGHTS ALTERNATIVE]**

10.4 Step-in Rights (Operation by PacifiCorp Following Event of Default of Seller).

Prior to any termination of this Agreement due to an Event of Default of Seller, as identified in Section 11, PacifiCorp shall have the right, but not the obligation, to possess, assume control of, and operate the Facility as agent for Seller (in accordance with Seller's rights, obligations, and interest under this Agreement) during the period provided for herein. Seller shall not grant any person, other than the lending institution providing financing to the Seller for construction of the Facility ("Facility Lender"), a right to possess, assume control of, and operate the Facility that is equal to or superior to PacifiCorp's right under this Section 10.4.

PacifiCorp shall give Seller ten (10) calendar days' notice in advance of the contemplated exercise of PacifiCorp's rights under this Section 10.4. Upon such notice, Seller shall collect and have available at a convenient, central location at the Facility all documents, contracts, books, manuals, reports, and records required to construct, operate, and maintain the Facility in accordance with Prudent Electrical Practices. Upon such notice, PacifiCorp, its employees, contractors, or designated third parties shall have the unrestricted right to enter the Facility for the purpose of constructing and/or operating the Facility. Seller hereby irrevocably appoints PacifiCorp as Seller's attorney-in-fact for the exclusive purpose of executing such documents and taking such other actions as PacifiCorp may reasonably deem necessary or appropriate to exercise PacifiCorp's step-in rights under this Section 10.4.

During any period that PacifiCorp is in possession of and constructing and/or operating the Facility, no proceeds or other monies attributed to operation of the Facility shall be remitted to or otherwise provided to the account of Seller until all Events of Default of Seller have been cured.

During any period that PacifiCorp is in possession of and operating the Facility, Seller shall retain legal title to and ownership of the Facility and PacifiCorp shall assume possession, operation, and control solely as agent for Seller.

In the event PacifiCorp is in possession and control of the Facility for an interim period, Seller shall resume operation and PacifiCorp shall relinquish its right to operate when Seller demonstrates to PacifiCorp's reasonable satisfaction that it will remove those grounds that originally gave rise to PacifiCorp's right to operate the Facility, as provided above, in that Seller (i) will resume operation of the Facility in accordance with the provisions of this Agreement, and (ii) has cured any Events of Default of Seller which allowed PacifiCorp to exercise its rights under this Section 10.4.

In the event that PacifiCorp is in possession and control of the Facility for an interim period, the Facility Lender, or any nominee or transferee thereof, may foreclose and take possession of and operate the Facility and PacifiCorp shall relinquish its right to operate when the Facility Lender or any nominee or transferee thereof, requests such relinquishment.

PacifiCorp's exercise of its rights hereunder to possess and operate the Facility shall not be deemed an assumption by PacifiCorp of any liability attributable to Seller. If at any time after exercising its rights to take possession of and operate the Facility PacifiCorp elects to return such possession and operation to Seller, PacifiCorp shall provide Seller with at least fifteen (15) calendar days advance notice of the date PacifiCorp intends to return such possession and operation, and upon receipt of such notice Seller shall take all measures necessary to resume possession and operation of the Facility on such date.

## **SECTION 11: DEFAULTS AND REMEDIES**

11.1 Events of Default. The following events shall constitute defaults under this Agreement:

11.1.1 Breach of Material Term. Failure of a Party to perform any material obligation imposed upon that Party by this Agreement (including but not limited to failure by Seller to meet any deadline set forth in Section 2) or breach by a Party of a representation or warranty set forth in this Agreement.

11.1.2 Default on Other Agreements. Seller's failure to cure any default under any commercial or financing agreements or instrument (including the Generation Interconnection Agreement) within the time allowed for a cure under such agreement or instrument.

11.1.3 Insolvency. A Party (a) makes an assignment for the benefit of its creditors; (b) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors, or has such a petition filed against it and such petition is not withdrawn or dismissed within sixty (60) days after such filing; (c) becomes insolvent; or (d) is unable to pay its debts when due.

11.1.4 Material Adverse Change. A Material Adverse Change has occurred with respect to Seller and Seller fails to provide such performance assurances as are reasonably requested by PacifiCorp, including without limitation the posting of additional Default Security, within thirty (30) days from the date of such request;

11.1.5 Delayed Commercial Operations. Seller's failure to achieve the Commercial Operation Date by the Scheduled Commercial Operation Date.

11.1.6 Underdelivery. If Seller's Facility has a Facility Capacity Rating of 100 kW or less, Seller's failure to satisfy the minimum delivery obligation of Section 4.3 for two (2) consecutive years; else Seller's failure to satisfy the minimum delivery obligation of Section 4.3 for one year.

## 11.2 Notice; Opportunity to Cure.

11.2.1 Notice. In the event of any default hereunder, the non-defaulting Party must notify the defaulting Party in writing of the circumstances indicating the default and outlining the requirements to cure the default.

11.2.2 Opportunity to Cure. A Party defaulting under Section 11.1.1 or 11.1.5 shall have thirty (30) days to cure after receipt of proper notice from the non-defaulting Party. This thirty (30) day period shall be extended by an additional ninety (90) days if (a) the failure cannot reasonably be cured within the thirty (30) day period despite diligent efforts, (b) the default is capable of being cured within the additional ninety (90) day period, and (c) the defaulting Party commences the cure within the original thirty (30) day period and is at all times thereafter diligently and continuously proceeding to cure the failure.

11.2.3 Seller Default Under Other Agreements. Seller shall cause any notices of default under any of its commercial or financing agreements or instruments to be sent by the other party to such agreements or instruments, or immediately forwarded, to PacifiCorp as a notice in accordance with Section 23.

11.2.4 Seller Delinquent on Construction-related Financial Obligations. Seller promptly shall notify PacifiCorp (or cause PacifiCorp to be notified) anytime it becomes delinquent under any construction related financing agreement or instrument related to the Facility. Such delinquency may constitute a Material Adverse Change, subject to Section 11.1.4.

## 11.3 Termination.

11.3.1 Notice of Termination. If a default described herein has not been cured within the prescribed time, above, the non-defaulting Party may terminate this Agreement at its sole discretion by delivering written notice to the other Party and may pursue any and all legal or equitable remedies provided by law or pursuant to this Agreement; *provided, however* that PacifiCorp shall not terminate: (a) for a default under Section 11.1.5 unless PacifiCorp is in a resource deficient state during the period Commercial Operation is delayed; or (b) for a default under Section 11.1.6, unless such default is material. The rights provided in Section 10 and this Section 11 are cumulative such that the exercise of one or more rights shall not constitute a waiver of any other rights. Further, the Parties may by mutual written agreement amend this Agreement in lieu of a Party's exercise of its right to terminate.

In the event this Agreement is terminated because of Seller's default and Seller wishes to again sell Net Output to PacifiCorp following such termination, PacifiCorp in its sole discretion may require that Seller shall do so subject to the terms of this Agreement, including but not limited to the Contract Price, until the Termination Date (as set forth in Section 2.4). At such time Seller and PacifiCorp agree to execute a written document ratifying the terms of this Agreement.

11.3.2 Damages. If this Agreement is terminated as a result of Seller's default, Seller shall pay PacifiCorp the positive difference, if any, obtained by subtracting the Contract Price

from the sum of the Replacement Price for the Minimum Annual Delivery that Seller was otherwise obligated to provide for a period of twenty-four (24) months from the date of termination plus any cost incurred for transmission purchased to deliver the replacement power to the Point of Delivery, and the estimated administrative cost to the utility to acquire replacement power. Amounts owed by Seller pursuant to this paragraph shall be due within five (5) business days after any invoice from PacifiCorp for the same.

If this Agreement is terminated because of Seller's default, PacifiCorp may foreclose upon any security provided pursuant to Section 10 to satisfy any amounts that Seller owes PacifiCorp arising from such default.

#### 11.4 Damages.

11.4.1 Failure to Deliver Net Output. In the event of Seller default under Subsection 11.1.5 or Subsection 11.1.6, then Seller shall pay PacifiCorp the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price for any energy and capacity that Seller was otherwise obligated (under Section 4.3) to provide during the period of default ("**Net Replacement Power Costs**"); *provided, however*, that the positive difference obtained by subtracting the Contract Price from the Replacement Price shall not exceed the Contract Price, and the period of default under this Section 11.4.1 shall not exceed one Contract Year.

#### 11.4.2 Recoupment of Damages.

Default Security Available. If Seller has posted Default Security, PacifiCorp may draw upon that security to satisfy any damages, above.

Default Security Unavailable. If Seller has not posted Default Security, or if PacifiCorp has exhausted the Default Security, PacifiCorp may collect any remaining amount owing by partially withholding future payments to Seller over a reasonable period of time, which period shall not be less than the period over which the default occurred. PacifiCorp and Seller shall work together in good faith to establish the period, and monthly amounts, of such withholding so as to avoid Seller's default on its commercial or financing agreements necessary for its continued operation of the Facility.

### **SECTION 12: INDEMNIFICATION AND LIABILITY**

#### 12.1 Indemnities.

Indemnity by Seller. Seller shall release, indemnify and hold harmless PacifiCorp, its directors, officers, agents, and representatives against and from any and all loss, fines, penalties, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with (a) the energy delivered by Seller under this Agreement to and at the Point of Delivery, (b) any facilities on Seller's side of the Point of Delivery, (c) Seller's operation and/or maintenance of the Facility, or (d) arising from this Agreement, including without limitation any loss, claim, action or suit, for or on account of

injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property belonging to PacifiCorp, Seller or others, excepting only such loss, claim, action or suit as may be caused solely by the fault or gross negligence of PacifiCorp, its directors, officers, employees, agents or representatives.

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

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

12.3 No Consequential Damages. EXCEPT TO THE EXTENT SUCH DAMAGES ARE INCLUDED IN THE LIQUIDATED DAMAGES, DELAY DAMAGES, COST TO COVER DAMAGES OR OTHER SPECIFIED MEASURE OF DAMAGES EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, PUNITIVE, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES, WHETHER SUCH DAMAGES ARE ALLOWED OR PROVIDED BY CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, STATUTE OR OTHERWISE.

### **SECTION 13: INSURANCE (FACILITIES OVER 200KW ONLY)**

13.1 Certificates. Prior to connection of the Facility to PacifiCorp's electric system, or another utility's electric system if delivery to PacifiCorp is to be accomplished by wheeling, Seller shall secure and continuously carry insurance in compliance with the requirements of this Section. Seller shall provide PacifiCorp insurance certificate(s) (of "ACORD Form" or the equivalent) certifying Seller's compliance with the insurance requirements hereunder. Commercial General Liability coverage written on a "claims-made" basis, if any, shall be specifically identified on the certificate. If requested by PacifiCorp, a copy of each insurance policy, certified as a true copy by an authorized representative of the issuing insurance company, shall be furnished to PacifiCorp.

13.2 Required Policies and Coverages. Without limiting any liabilities or any other obligations of Seller under this Agreement, Seller shall secure and continuously carry with an

insurance company or companies rated not lower than “B+” by the A.M. Best Company the insurance coverage specified below:

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

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

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

13.4 All liability policies required by this Agreement shall include provisions that such insurance is primary insurance with respect to the interests of PacifiCorp and that any other insurance maintained by PacifiCorp is excess and not contributory insurance with the insurance required hereunder, and provisions that such policies shall not be canceled or their limits of liability reduced without 1) ten (10) days prior written notice to PacifiCorp if canceled for nonpayment of premium, or 2) thirty (30) days prior written notice to PacifiCorp if canceled for any other reason.

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

#### **SECTION 14: FORCE MAJEURE**

14.1 As used in this Agreement, “**Force Majeure**” or “**an event of Force Majeure**” means any cause beyond the reasonable control of the Seller or of PacifiCorp which, despite the exercise of due diligence, such Party is unable to prevent or overcome. By way of example, Force Majeure may include but is not limited to acts of God, fire, flood, storms, wars, hostilities, civil strife, strikes, and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay or failure in the performance as a result of any action or inaction on behalf of a public authority which by the exercise of reasonable foresight such Party could not reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to overcome, subject, in each case, to the requirements of the first sentence of this paragraph. Force Majeure, however, specifically excludes the cost or



availability of fuel or motive force resources to operate the Facility or changes in market conditions that affect the price of energy or transmission. If either Party is rendered wholly or in part unable to perform its obligation under this Agreement because of an event of Force Majeure, that Party shall be excused from whatever performance is affected by the event of Force Majeure to the extent and for the duration of the event of Force Majeure, after which such Party shall recommence performance of such obligation, provided that:

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

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

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

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

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

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

#### **SECTION 15: SEVERAL OBLIGATIONS**

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

#### **SECTION 16: CHOICE OF LAW**

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

#### **SECTION 17: PARTIAL INVALIDITY**

It is not the intention of the Parties to violate any laws governing the subject matter of this Agreement. If any of the terms of the Agreement are finally held or determined to be invalid, illegal or void as being contrary to any applicable law or public policy, all other terms of the

Agreement shall remain in effect. If any terms are finally held or determined to be invalid, illegal or void, the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any applicable law and the intent of the Parties to this Agreement.

#### **SECTION 18: WAIVER**

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

#### **SECTION 19: GOVERNMENTAL JURISDICTIONS AND AUTHORIZATIONS**

This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party or this Agreement. Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide upon request copies of the same to PacifiCorp.

#### **SECTION 20: REPEAL OF PURPA**

This Agreement shall not terminate upon the repeal of the PURPA, unless such termination is mandated by federal or state law.

#### **SECTION 21: SUCCESSORS AND ASSIGNS**

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

#### **SECTION 22: ENTIRE AGREEMENT**

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

22.2 By executing this Agreement, Seller releases PacifiCorp from any claims, known or unknown, that may have arisen prior to the Effective Date.

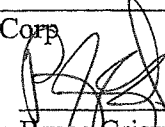
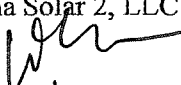
**SECTION 23: NOTICES**

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

<b>Notices</b>	<b>PacifiCorp</b>	<b>Seller</b>
<b>All Notices</b>	PacifiCorp 825 NE Multnomah Street Portland, OR 97232 Attn: Contract Administration, Suite 600 Phone: (503) 813 - 5380 Facsimile: (503) 813 - 6291 Duns: 00-790-9013 Federal Tax ID Number: 93-0246090	William M. Eddie Ewauna Solar 2, LLC 206 NE 28 <sup>th</sup> Avenue, Suite 202 Portland, OR 97232 Phone: 503-232-1989
<b>All Invoices:</b>	(same as street address above) Attn: Back Office, Suite 700 Phone: (503) 813 - 5578 Facsimile: (503) 813 - 5580	Same as above
<b>Scheduling:</b>	(same as street address above) Attn: Resource Planning, Suite 600 Phone: (503) 813 - 6090 Facsimile: (503) 813 - 6265	Same as above
<b>Payments:</b>	(same as street address above) Attn: Back Office, Suite 700 Phone: (503) 813 - 5578 Facsimile: (503) 813 - 5580	Same as above
<b>Wire Transfer:</b>	Bank One N.A. ABA: ACCT: NAME: PacifiCorp Wholesale	
<b>Credit and Collections:</b>	(same as street address above) Attn: Credit Manager, Suite 700 Phone: (503) 813 - 5684 Facsimile: (503) 813 - 5609	Same as above
<b>With Additional Notices of an Event of Default or Potential Event of Default to:</b>	(same as street address above) Attn: PacifiCorp General Counsel Phone: (503) 813-5029 Facsimile: (503) 813-7252	Same as above

23.2 The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section 23.

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

PacificCorp	Ewauna Solar 2, LLC
By: 	By: 
Name: <u>Bruce Griswold</u>	Name: <u>William Eddie</u>
Title: <u>Director, Short-Term Origination and</u>	Title: _____
<u>QF Contracts</u>	Date: <u>June 8, 2015</u>
Date: <u>6/5/2015</u>	

BWS 6-2-2015

President, OneEnergy Development, LLC  
(sole owner & manager Ewauna Solar 2, LLC)

**ADDENDUM A**  
**Jury Trial Waiver**

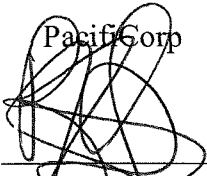
PacifiCorp and Ewauna Solar 2, LLC (“Ewauna 2”) are parties to that certain Power Purchase Agreement executed the date last written below (the “PPA”). This Addendum A to the PPA is entered into by and between PacifiCorp and Ewauna 2 and is intended to be interpreted and applied to the PPA.


Whereas, the Parties for their respective business purposes have an interest in not presenting a dispute to a jury for trial should a dispute arise between the Parties;

NOW, THEREFORE, for independent consideration, the receipt and sufficiency of which is acknowledged by both Parties, the Parties do hereby declare and agree as follows:

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

This Addendum A to the PPA is executed and made effective this 5<sup>th</sup> day of June, 2015.

PacifiCorp  
By:   
Name: Bruce Griswold  
Title: Director, Short-Term Origination and QF Contracts

Ewauna Solar 2, LLC  
By:   
Name: William M. Eddie  
Title: President, One Energy Development LLC  
Sole owner & manager, Ewauna Solar 2, LLC

**EXHIBIT A**  
**DESCRIPTION OF SELLER'S FACILITY**  
**[Seller to Complete]**

Seller's Facility consists of a 2.9 MWac solar photovoltaic project including PV panels, inverters, and single axis tracking system. More specifically, the inverter at the Facility is described as:

**Number of Inverters: 105**

**Model:** Sub-array #1: PVI 28TL 480V, Sub-array #2: PVI 23TL 480V

**Number of Phases:**

**Rated Output (kW):** 2900 kW ac                      **Rated Output (kVA): 2900 kVA**

**Rated Voltage (line to line):** 12.47 kVac

**Maximum kW Output:** 830 kW                      **Maximum kVA Output:** 2900 kVA

**Minimum kW Output:** 0 kW

**Facility Annual Degradation Rate: 0.5 %**

---

**Facility Capacity Rating:**   2,900   kW

---

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

**Station service requirements, and other loads served by the Facility, if any, are described as follows:**

**Station service requirements, and other loads served by the Facility, if any, are described as follows:**

---

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

---

**Values above are percentage loss of Total output and losses are already accounted for in the expected output in Exhibit D-1**

---

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

GPS: 42° 14'10.61"N, 121°45'57.97"W

Parcel ID: Parcel ID: Parcel 200, Section 16, T39S, R9E

**Power factor requirements:** Rated Power Factor (PF) or reactive load (kVAR): Facility will operate within power factor range of 0.8 leading to 0.8 lagging. Power factor requirements will meet PacifiCorp standard interconnection procedures.

A more detailed and updated Exhibit A will be provided per section 6.1 (as-built supplement).

## **EXHIBIT B**

### **SELLER'S INTERCONNECTION FACILITIES**

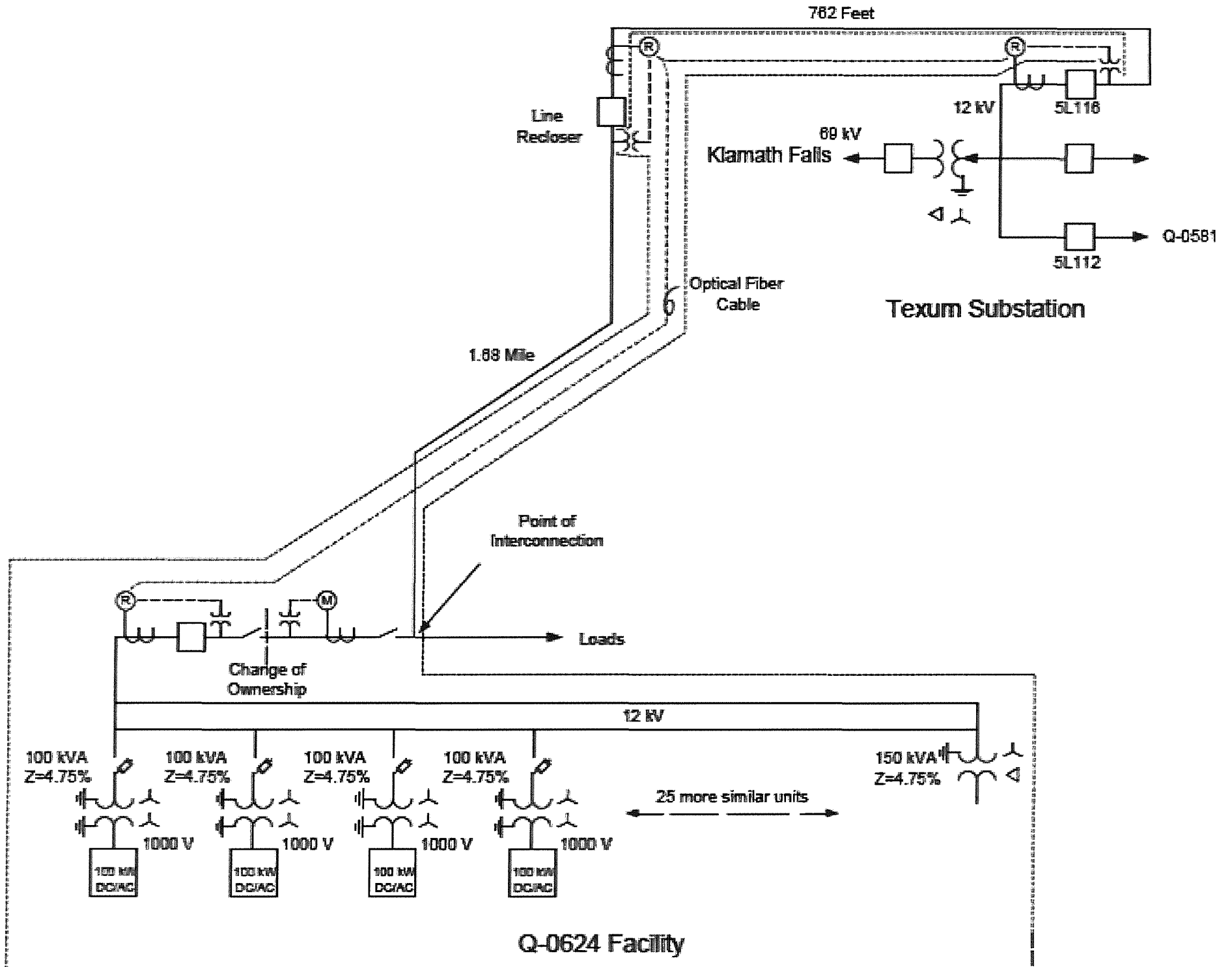
[Seller to provide its own diagram and description]

### **POINT OF DELIVERY / SELLER'S INTERCONNECTION FACILITIES**

Instructions to Seller:

1. Include description of point of metering, and Point of Delivery
2. Provide interconnection single line drawing of Facility including any transmission facilities on Seller's side of the Point of Delivery.
  1. The point of delivery and point of metering are at the high side of the step-up transformer at the Point of Interconnection, located on Circuit 5L116, Altamont, out of the Texum substation. The metering will be installed at the Point of Interconnection. Delivery will be at the Change of Ownership identified in PacifiCorp's one-line diagram from the System Impact Study Q0624.
  2. The project site map and one-line diagram are attached.





**EXHIBIT C**  
**REQUIRED FACILITY DOCUMENTS**

**REQUIRED OF ALL FACILITIES:**

QF Certification: QF15 719 000

Interconnection Agreement: Due March 1, 2016

Fuel Supply Agreement, if applicable: NA

Ground Lease Agreement: Land Lease and Solar Easement Agreement with Juanita Goode Trust and Ewauna Park, LLC dated March 17, 2014

Retail Electric Service Agreement:

Permits:

- Conditional Use Permit or alternative zoning approval as applicable by the local jurisdiction
- Building Permit
- Electrical Permit (as applicable)
- 1200C Construction Stormwater General Permit (as applicable)

**REQUIRED IF SELLER ELECTS TO GRANT SENIOR LIEN OR STEP-IN RIGHTS:**

Deed or Lease to Facility Premises

Preliminary Title Report of Premises:

Proof of ownership of Facility

Off-take sale agreements, e.g. surplus heat sale contract, if applicable

Depending upon the type of Facility and its specific characteristics, additional Required Facility Documents may be requested.

August 6, 2014

Juanita Goode Trust and Ewauna Park, LLC  
c/o Eileen Gibbons  
24737 Prospect Ave.  
Los Altos Hills, CA 94022

Re: Notice of Assignment Solar Lease

Pursuant to Section 6.2 of the Land Lease and Solar Easement dated March 17, 2014 ("Solar Lease"), this letter is to notify you that the Solar Lease has been assigned to Ewauna Solar, LLC. Ewauna Solar, LLC, and the original tenant (OneEnergy Oregon Solar, LLC) are affiliates, as both are 100% owned by OneEnergy Development, LLC.

The address for notifications under the Solar Lease is unchanged except for the LLC name:

Ewauna Solar, LLC  
c/o OneEnergy Development, LLC  
101 Yesler Way, Suite 401  
Seattle WA, 98104

This assignment was completed in order to facilitate project financing.

Sincerely,



Travis Bryan

COO, OneEnergy Development, LLC  
(Manager of Ewauna Solar, LLC and  
OneEnergy Oregon Solar, LLC)

### **Land Lease and Solar Easement**

This Land Lease and Solar Easement (“**Lease**”) is made on this 17 day of March, 2014 (the “**Effective Date**”) between Juanita Goode Trust and Ewauna Park, LLC (“**Together, Owner**”) and OneEnergy Oregon Solar LLC, an Oregon limited liability company (hereinafter “**Tenant**”). Owner and Tenant are each a “**Party**” and together are referred to herein as the “**Parties**.”

### **RECITALS**

WHEREAS, Owner is owner of certain real property located at 1845 Southside Bypass in Klamath County, Oregon consisting of approximately one hundred and nineteen (119) acres as depicted and described in Exhibit A attached (“**Owner’s Property**”); and

WHEREAS, Tenant desires to obtain a land lease and easements from Owner, on, along, over and under a one hundred and nineteen (119) acre portion of Owner’s Property described in **Exhibit B** attached (the “**Area of Interest**”) for the purpose of planning, constructing, operating and maintaining solar energy generating systems and related electrical or other energy distribution and transmission infrastructure.

THEREFORE, in consideration of the terms and understanding contained in this Lease, and other valuable consideration, Owner and Tenant agree to the following terms and conditions:

### **ARTICLE 1 – NATURE AND TERM OF AGREEMENT**

#### **Section 1.1 Interests Granted**

- (a) Grant of Leasehold Interest. Owner hereby leases exclusively to Tenant the Area of Interest for the sole purpose of planning, constructing, installing, operating, and maintaining solar energy conversion systems, including, without exclusion, solar photovoltaic panels (including concentrating solar photovoltaic equipment), solar resource measurement equipment, support structures, foundations, pads, footings, fencing, electrical inverters and transformers, meters, switches, breakers, fixtures, equipment storage, electric wiring, distribution and transmission lines, access roads, interconnection facilities and related structures and facilities and equipment (collectively the “**Solar Facilities**”) only on Owner’s Property to the extent set forth in this Lease.
- (b) Grant of Access Easement. Owner hereby grants to Tenant an easement for ingress and egress to and from the Solar Facilities over Owner’s Property. Tenant agrees to work with Owner to minimize impacts to Owner’s other property.
- (c) Grant of Utilities Easement. Owner hereby grants to Tenant an easement for planning, designing, constructing, installing, operating, and maintaining electric wiring, distribution and transmission lines, and communications lines across Owner’s Property (including areas outside the Area of Interest to be specified as required). Such easement shall, to the extent practicable, utilize existing utility corridors on Owner’s Property. Tenant agrees to work with Owner to minimize impacts to Owner’s other property.
- (d) Grant of Solar Easement. Owner hereby grants to Tenant the sole right to capture unimpeded solar insolation throughout the Area of Interest. Owner shall not install nor allow any person or entity (other than Tenant) to install any obstruction which may impair solar insolation on the Solar Premises. Structures, improvements, trees, and

vegetation located on Owner's Property which may impair solar insolation on the Solar Premises may be removed by Tenant at Tenant's expense. Owner may not create or permit to be created on Owner's Property or any adjacent land owned by Owner any structures or improvements, or plant any trees or other vegetation which may, in Tenant's sole judgment, impede or interfere with solar insolation on the Solar Premises or Tenant's operations, unless Owner has received written approval from Tenant (such approval not to be unreasonably withheld).

### **Section 1.2 Lease Term; Notice to Owner and Solar Premises; Compatible Usage**

- (a) Lease Periods. The Lease Term shall be comprised of a Due Diligence Period and an Occupation Period. "**Due Diligence Period**" means the period of the Term commencing on the Effective Date and ending on the earliest of: (i) commencement of the Occupation Period; (ii) the date that is three (3) years after the Effective Date; or (iii) termination of this Lease. "**Occupation Period**" means the period of the Term commencing 60 days after written notice to Owner of Tenant's intent to construct Solar Facilities per Section 1.2(c), and continuing until termination of this Lease.
- (b) Due Diligence Period. The Due Diligence Period is defined as the time between the Effective Date and the date Tenant provides either (i) notice of intent to construct Solar Facilities, or (ii) notice of lease cancellation. If Tenant determines, in its discretion, that Owner's Property is not appropriate for Tenant's intended use (or if Tenant decides for any reason or no reason, not to construct Solar Facilities on Owner's Property), then Tenant may cancel and terminate this Agreement upon written notice to Owner at any time during the Due Diligence Period. Tenant makes no representation or warranty as to the likelihood that Solar Facilities will be installed on Owner's Property during the term of this Lease.
- (c) Notice to Owner and Solar Premises. Tenant shall provide written notice of intent to begin construction of the Solar Facilities ("Notice"). The Notice will specify the date that the Occupation Period will begin, such date to occur not less than sixty (60) days following Owner's receipt of the notice. Such Notice also shall include a survey, legal description, and calculated acreage of the portion of the Area of Interest that will be utilized for development of the Solar Facilities (the "**Solar Premises**"), which shall be attached to this Lease as an amendment to **Exhibit B**. Owner shall incur no out-of-pocket cost for the performance of the survey, gathering of legal description, or calculation of acreage for preparation of the notice.
- (d) Compatible Usage. During the Due Diligence Period, Owner shall retain the right to use Owner's Property (including the Area of Interest), to the extent its use is consistent with 6.2(b), for farming, ranching, grazing, conservation, or other purposes. During the Occupation Period, Owner shall retain the right to use that portion of Owner's Property outside the Solar Premises to the extent its use is consistent with Sections 1.1, 1.2, 4.2, and 5.3, for farming, ranching, grazing, conservation, or other purposes, and Owner shall be entitled to use any private road constructed by Tenant on the Solar Premises if necessary for access to the balance of Owner's Property.

### **Section 1.3 Expansions, Relocation; Expiration Date and Right to Extend**

- (a) Expansions, Relocation. Tenant reserves the exclusive right to locate new Solar Facilities or to relocate existing Solar Facilities within the Area of Interest during the Term (as defined below), in which case a new Notice will be provided to Owner and Exhibit B will be amended pursuant to the terms of Section 1.2(c).
- (b) Expiration Date. This Lease will expire twenty-six (26) years from the commencement of the Occupation Period (the “**Expiration Date**”) unless terminated earlier or extended as provided herein. The “**Term**” means the period commencing on the Effective Date and ending on the expiration or early termination of this Lease.
- (c) Right to Extend. Unless this Lease terminates prior to the Expiration Date as provided herein, Tenant shall have the right (but not the obligation) to extend the Term of this Lease by up to ten (10) years (the “**Extension Period**”) by giving written notice to Owner no later than two (2) years prior to the Expiration Date. In the event Tenant exercises its right to extend this Lease as described in this paragraph, then all provisions of this Lease shall continue in effect during the Extension Period.

#### **Section 1.4 Termination of Lease**

The occurrence of any of the following events shall terminate this Lease:

- (a) The expiration of the Term of this Lease as set forth in Section 1.2 and Section 1.3; or
- (b) Tenant provides Owner with written notice of cancelation of this Lease at any time during the Due Diligence Period; or
- (c) The written agreement of both Parties to terminate this Lease; or
- (d) Pursuant to Section 8.1, either Party elects to terminate the Lease for default of the other Party;
- (e) Tenant fails to provide Notice of its intent to construct Solar Facilities to Owner as set forth in Section 1.2(c) prior to the end of the Due Diligence Period; or
- (f) Tenant is unable to generate solar power via the Solar Facilities due to any action, omission, or circumstances outside of Tenant’s control.

### **ARTICLE 2. RENT, RECORDS, TAXES**

#### **Section 2.1 Rent**

- (a) Due Diligence Period Rent. During the Due Diligence Period, Tenant shall pay to Owner an annual rental payment set forth in Table 3.1(a), below (the “**Due Diligence Rent**”). The Due Diligence Period is a maximum of three (3) years.

**Table 2.1(a)**

<b>Year of Due Diligence Period</b>	<b>1</b>	<b>2</b>	<b>3</b>
<b>Due Diligence Rent (\$/year)</b>	\$2,000	\$4,000	\$7,000

- (b) For the purpose of clarification, the Due Diligence Rent amounts set forth in Table 2.1(a) above are annual payment amounts for the entire Owner's Property and not on a per-acre or other unit basis. Tenant's obligation to pay Due Diligence Rent shall commence upon the Effective Date, and shall cease upon the day prior to the date upon which Tenant is obligated to pay Occupation Rent (as defined below). Tenant shall pay the initial annual Due Diligence Rent to Owner within ten (10) business days of the Effective Date. Commencing with the first anniversary of the Effective Date, subsequent payments shall be paid in yearly installments within thirty (30) business days of the anniversary date. In the event the Occupation Period begins on any date other than a date upon which a Due Diligence Rent payment is due, the last Due Diligence Rent payment shall be prorated for such partial period and the remainder shall be credited to Occupation Rent.
- (c) Occupation Period Rent. Tenant shall pay to Owner a rental payment equal to the Per-Acre Fee per year for each acre in the Solar Premises (the "**Occupation Rent**") on the commencement of the Occupation Period and each one (1) year anniversary of the commencement of the Occupation Period thereafter. The "**Per-Acre Fee**" means U.S. nine hundred and fifty Dollars (\$950.00), which amount shall increase by the equivalent annual percentage increase of the Consumer Price Index commencing on the first anniversary of the Occupation Period. Occupation Rent payments shall be prorated for any partial year and partial acreage.
- (d) Back Rental Payments. Within 30 days of commencement of the Occupation Period, Tenant shall pay to Owner a one-time payment equivalent to half the Per-Acre Fee multiplied by the number of acres occupied by the Solar Premises, multiplied by the number of years, pro-rated for partial years, that have passed since the Effective Date.

## **Section 2.2 Taxes, Assessments, and Utilities**

- (a) Tax Obligations of Owner. Subject to Section 2.2(b), Owner shall pay, when due, all real property taxes and assessments levied against Owner's Property and all personal property taxes and assessments levied against any property and improvements owned by Owner and located on Owner's Property. Subject to Section 2.3(c), if Owner shall fail to pay any such taxes or assessments when due, Tenant may, at its option, pay those taxes and assessments and any accrued interest and penalties, and deduct the amount of its payment from any Option Rent and Occupation Rent, obligations otherwise due to Owner from Tenant.
- (b) Tax Obligations of Tenant. Tenant shall pay all personal property taxes and assessments levied against the Solar Facilities when due. If Owner's Property experiences any increase in the amount of real property taxes assessed as a result of the installation of the Solar Facilities on Owner's Property, including any reclassification of Owner's Property, Tenant shall pay or reimburse Owner an amount equal to the increase no later than ten (10) days prior to the date each year on which the applicable real property taxes are due to be paid, provided that Owner provides Tenant with copies of the applicable current and

past statements of real property taxes payable for Owner's Property and any related information demonstrating the reasons for any increase in real property taxes.

- (c) Contested Taxes. Either Party may contest the validity or amount of any levied taxes, assessments or other charges for which each is responsible under this Lease as long as such contest is pursued in good faith and with due diligence and the Party contesting the tax, assessment or charge has paid the obligation in question or established adequate reserves to pay the obligation in the event of an adverse determination.
- (d) Utilities. Tenant shall pay for all water, electric, telecommunications and any other utility services used by the Solar Facilities or Tenant on Owner's Property.

### **ARTICLE 3. Tenant's Obligations**

#### **Section 3.1 Liens**

Tenant shall keep Owner's Property free and clear of all liens and claims of liens for labor, material, services, supplies and equipment performed on or furnished to Tenant or any of the components of the Solar Facilities in connection with Tenant's use of Owner's Property. Tenant may contest any such lien, but shall post a bond or utilize other available means to remove any lien that is created during the contested proceeding. Tenant agrees to otherwise remove any lien or encumbrance for which it is responsible pursuant to this paragraph within sixty (60) days of the creation of any such lien or encumbrance. Encumbrances incurred by Tenant in accordance with Section 6.1 are not subject to this Section 3.1.

#### **Section 3.2 Permits and Laws**

Tenant and its designees shall at all times comply with all applicable federal, state, and local laws, statutes, ordinances, rules, regulations, judgments and other valid orders of any governmental authority with respect to Tenant's activities pursuant to this Lease and shall obtain all permits, licenses and orders required to conduct any all such activities.

#### **Section 3.3 Tenant's Improvements**

- (a) Ownership. All Solar Facilities constructed, installed or placed on Owner's Property by Tenant pursuant to this Lease shall be the sole property of Tenant, and Owner shall have no ownership or other interest in any Solar Facilities on Owner's Property, except in case of default and abandonment.
- (b) Maintenance. Throughout the Term, Tenant shall, at its sole cost and expense, maintain Tenant's Solar Facilities in good condition and repair, ordinary wear and tear excepted. All Solar Facilities constructed, installed or placed on Owner's Property by Tenant pursuant to this Lease may be moved, replaced, repaired or refurbished by Tenant at any time.
- (c) Removal. Tenant shall remove all its Solar Facilities, including foundations to a depth of three (3) feet below grade, within one (1) year from the date the Lease expires or terminates, and backfill any remaining excavations such that the Owner's Property will be navigable by tractor. Tenant shall restore property to a reasonable approximation of



its original state. . If Tenant fails to remove any of the Solar Facilities within the required time period, such Solar Facilities shall be considered abandoned by Tenant and Owner may remove these Solar Facilities from Owner's Property and dispose of them in its sole discretion without notice or liability to Tenant. If Owner incurs costs to decommission and remove any of the Solar Facilities due to Tenant's failure to do so within the required time period, Tenant hereby indemnifies Owner for such costs reasonably incurred and agrees to reimburse Owner for those amounts reasonably incurred within 60 days of receipt of adequate documentation of the costs.

- (d) Assurance for Removal. Beginning after the first year of the Occupation Period, Tenant shall provide assurance to Owner of Tenant's ability to pay for the costs of removal of the Solar Facilities as required by Section 3.3(c) Such assurance may be in the form of (a) decommissioning insurance, (b) posting of a bond, or (c) other form assurance satisfactory to Owner.

### **Section 3.4 Insurance**

Tenant shall obtain and maintain policies of insurance covering the Solar Facilities and Tenant's activities on Owner's Property at all times during the Term, including comprehensive general liability insurance with a minimum combined occurrence and annual limitation of \$2,000,000.00 USD. Such insurance coverage for the Solar Facilities and Owner's Property may be provided as part of a blanket policy which also covers other solar facilities or properties. Any such policies shall name Owner as an additional insured and provide for thirty (30) days prior written notice to Owner of any cancellation or material change. Tenant shall provide Owner with copies of certificates of insurance evidencing this coverage within thirty (30) days of the Effective Date..

## **ARTICLE 4. Owner's Obligations**

### **Section 4.1 Title and Authority**

- (a) Owner's Authority. Except to the extent otherwise stated in this Lease, Owner represents and warrants it is the sole owner of Owner's Property in fee simple and each person or entity signing the Lease on behalf of Owner has the full and unrestricted authority to execute and deliver this Lease and to grant the easements and rights granted herein. All persons having any ownership interest in Owner's Property (including spouses) are signing this Lease as Owner. When signed by Owner, this Lease constitutes a valid and binding agreement enforceable against Owner in accordance with its terms.
- (b) Encumbrances. Owner represents and warrants to the best of its knowledge that there are no encumbrances or liens against Owner's Property except as disclosed in **Exhibit D**. In the event that there are one or more mortgages encumbering Owner's Property as of the date of this Lease, Tenant's obligations hereunder shall be expressly conditioned upon Owner obtaining a written subordination and non-disturbance agreement executed by each of the mortgagees under the terms of which the mortgagees agree, for themselves and their successors, not to disturb Tenant's and Tenant's Lenders' rights and possessory interests under this Lease in the event of foreclosure, judicial sale or other proceedings in connection with said mortgages. The non-disturbance agreement must be in a form reasonably acceptable to Tenant.

### **Section 4.2 Quiet Enjoyment**

Tenant shall have the quiet use and enjoyment of Solar Premises in accordance with the terms of this Lease without any interference of any kind by Owner or any person claiming through Owner. Owner and its activities on Owner's Property and any grant of rights Owner makes to any other person shall not interfere with Tenant's activities pursuant to this Lease, and Owner shall not interfere with any of Tenant's activities pursuant to this Lease, and Owner shall not interfere or allow interference with the solar insolation over Owner's Property or otherwise engage in activities which might impede or decrease the output or efficiency of the Solar Facilities.

### **Section 4.3 Cooperation**

Owner shall cooperate with Tenant to obtain non-disturbance and subordination agreements from any person or entity with a lien, encumbrance, mortgage, lease, or other exception to Owner's fee title to Owner's Property to the extent necessary to eliminate any actual or potential interference by any such lienholder with any rights granted to Tenant under this Lease. Owner shall also cooperate, at no out-of-pocket cost to Owner, with Tenant to obtain and maintain any permits or authorizations needed for the Solar Facilities. Owner shall also provide Tenant with such further assurances and shall execute any estoppel certificates, consents to assignments or additional documents that may be reasonably necessary for recording purposes or requested by Tenant or any of its lenders or financiers. Owner shall also reasonably cooperate, at no out-of-pocket cost to Owner, with Tenant's efforts, if any, to obtain access to water for purposes of construction, operations or maintenance of the Solar Facilities.

## **ARTICLE 5. Indemnification; Surface Damage; New Improvements**

### **Section 5.1 Indemnification**

Each Party (the "Indemnifying Party") agrees to defend, indemnify, and hold harmless the other Party and the other Party's officers, directors, employees, representatives, mortgagees and agents (collectively the "Indemnified Party") against any and all losses, damages, claims, expenses and liabilities for physical damage to property and for physical injury to any person, including without limitation, reasonable attorneys' fees and consequential damages, to the extent resulting from or arising out of (i) any operations or activities of the Indemnifying Party on the Owner's Property; (ii) any negligent or intentional act or omission on the part of the Indemnifying Party; or (iii) any breach of this Lease by the Indemnifying Party beyond any applicable notice and cure periods. This indemnification shall not apply to losses, damages, claims, expenses, and liabilities to the extent caused by any negligent or intentional act or omission on the part of the Indemnified Party. This indemnification shall apply only to losses, damages, claims, expenses and liabilities accruing during the Term.

### **Section 5.2 Surface Damage, Hazardous Substances.**

- (a) Damage. The Parties anticipate and acknowledge that Owner may suffer damage to crops, grass, fences, and other property or improvements on Owner's Property during Tenant's construction, installation, decommissioning, relocation, and maintenance of Solar Facilities. Tenant shall pay Owner fair compensation for any such losses or damage. Except for such losses and damage, Tenant shall not be responsible for any

losses of income, rent, business opportunities, profits or other losses arising out of Owner's inability to grow crops on or otherwise use Owner's Property.

- (b) Limitation on New Improvements. Notwithstanding Section 5.2(a), Owner shall not undertake any improvement on Owner's Property inconsistent with Tenant's future use of Owner's Property without Tenant's written consent. Any such improvement made without Tenant's prior written consent will be made at Owner's sole risk. Except to the extent Tenant agrees in writing to bear costs (which it may in its sole discretion), Owner will be solely responsible for, and shall indemnify Tenant for, the costs of removal of any such improvements and any associated restoration.
- (c) Hazardous Substances. Owner represents and warrants to Tenant that Owner has no knowledge of any substance, chemical or waste on or affecting Owner's Property identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation (collectively, "Hazardous Substance"). Notwithstanding any provision contained in this Agreement to the contrary, Owner will have sole responsibility for the identification, investigation, monitoring and remediation and cleanup of any Hazardous Substance discovered on Owner's Property. Owner agrees to indemnify, defend, and hold harmless Tenant from any and all claims relating to any Hazardous Substance present on or affecting Owner's Property prior to or on the Effective Date, unless the presence of release of the Hazardous Substance is caused by the activities of Tenant. Neither party will introduce or use any Hazardous Substance on the site in violation of any applicable law, and each Party will indemnify, defend, and hold harmless the other Party from and against all Claims arising out of any breach of this sentence. The provisions of this Section will apply as of the Effective Date. The indemnity obligations under this Section will survive termination of this Agreement.

## **ARTICLE 6: Assignment; Encumbrance of Lease**

### **Section 6.1 Right to Encumber**

Tenant may at any time mortgage all or any part of its interest in the Lease and rights under this Lease and/or enter into a collateral assignment of all or any part of its interest in the Lease or rights under this Lease to any entity ("**Lender**") without the consent of Owner. No later than 30 days after it has executed any agreement to mortgage or collaterally assign this Lease in whole or part, Tenant shall provide written notice to Owner of a Lender's interest in the Lease and specify the Lender's address to be used for issuance of notices under this Lease. Owner agrees to cooperate with Tenant to complete further agreements between Owner, Tenant, and Lender, providing for the right of a Lender to protect its interests in this Lease, including, for example, the right to receive any notices, to pay rents on behalf of Tenant, and to exercise any rights held by Tenant.

### **Section 6.2 Assignment**

Tenant has the right to assign, sublease, transfer or convey all or part of its interests in this Lease without Owner's consent. Tenant shall provide written notice to Owner of any such assignment, sublease, transfer, or conveyance.

### **Section 6.3 Continuing Nature of Obligations**

- (a) The solar easement and related rights granted by Owner in this Lease to Tenant are an easement in gross for the benefit of Tenant, its successors and assigns, as owner of the rights created by the easement. The easement and other rights granted by Owner in this Lease are independent of any lands or estates or interest in lands, there is no other real property benefiting from the solar easement granted in this Lease and, as between Owner's Property and other tracts of property on which Tenant may locate solar facilities, no tract is considered dominant or servient as to the other.
- (b) The burdens of the solar easement and all other rights granted to Tenant in this Lease shall run with and against Owner's Property and shall be a charge and burden on Owner's Property and shall be binding upon and against the Owner and its successors, assigns, permittees, licensees, Tenant, employees and agents. The Lease and solar easement shall inure to the benefit of the Tenant and its successors, assigns, permittees, licensees and sub-tenants.
- (c) Owners retain all geothermal and mineral rights on or under property. This shall not be interpreted as granting a right to disturb the Solar Facilities.

## **ARTICLE 7. Condemnation/Force Majeure**

### **Section 7.1 Condemnation**

If eminent domain proceedings are commenced against all or any portion of the Owner's Property and the taking and proposed use of such property would prevent or adversely affect Tenant's construction, installation or operation of Solar Facilities on Owner's Property, the Parties shall either amend this Lease to reflect any necessary relocation of the Solar Premises or Solar Facilities which will preserve the value and benefit of the Lease to the Tenant, together with any corresponding payments, or, at Tenant's option, this Lease shall terminate in which event neither Party shall have any further obligations.

### **Section 7.2 Proceeds**

All payments made by a condemnor on account of a taking by eminent domain shall be the property of the Owner, except that the Tenant shall be entitled to any award or amount paid for the reasonable costs of removing or relocating any of the Solar Facilities on Owner's Property or the loss of any such Solar Facilities or the use of Owner's Property pursuant to the Lease. Tenant shall have the right to participate in any condemnation proceedings to this extent.

### **Section 7.3 Force Majeure**

Neither Owner nor Tenant shall be liable to each other, or be permitted to terminate this Lease, for any failure to perform an obligation of this Lease to the extent such performance is prevented by an event of force majeure, which shall mean an event beyond the control of the Party so affected and which, by exercise of due diligence and foresight, could not have been avoided.

## **ARTICLE 8. Default Termination**

### **Section 8.1 Events of Default**

Each of the following shall constitute an event of default, which shall permit the non-defaulting Party to terminate this Lease or pursue other remedies available at law or equity:

- (a) any failure by Tenant to pay Occupation Rent if the failure to pay continues for sixty (60) days after written notice from Owner;
- (b) any other material breach of the Lease by either Party which continues for thirty (30) days after written notice of default from the non-defaulting Party or, if the cure will take longer than thirty (30) days, the length of time necessary to affect cure as long as the defaulting Party is making diligent efforts to cure during that time.

### **Section 8.2 Specific Performance**

Owner acknowledges and agrees that should Owner breach any of its obligations hereunder or otherwise fail to permit Tenant to exercise any of the rights and privileges granted herein, Tenant shall have the right to seek specific enforcement of this Lease.

### **Section 8.3 Cancellation During Due Diligence Period Not Default**

If Tenant provides notice of cancellation to Owner during the Due Diligence Period, Tenant shall not be liable for damages or payments to Owner under any theory. Such notice of cancellation shall be not be deemed to be a default or breach by Tenant.

## **ARTICLE 9. Miscellaneous**

### **Section 9.1 Notice**

Notices, consents or other documents required or permitted by this Lease must be given by personal delivery, telecopier or certified mail and shall be sent to the respective Parties as follows:

To Owner: Eileen Gibbons  
Ewauna Park, LLC  
24737 Prospect Ave  
Los Altos Hills, CA, 94022

To Tenant: OneEnergy Oregon Solar, LLC  
101 Yesler Way, Suite 401  
Seattle, WA 98104

Attn: CEO

With a copy: OneEnergy Renewables  
c/o Ascent Law Partners, LLC  
719 2<sup>nd</sup> Ave., Suite 1150  
Seattle, WA 98104

### **Section 9.2 Record**

Upon Tenant's request, Owner and Tenant shall execute a memorandum of this Lease, the form of which is attached hereto as Exhibit C, which may be recorded by Tenant at Tenant's cost in the county where Owner's Property is situated. Upon the termination or expiration of this Lease, Tenant shall ensure that appropriate termination of lease documentation is recorded.

### **Section 9.3 New Lease**

If, at any time during the Term of this Lease, Tenant deems it necessary to (i) meet legal requirements for preserving the validity of the Lease, or (ii) carry out the financing of the Solar Facilities, Tenant may require that Owner execute a new lease of substantially the same essential commercial provisions and with a term no longer than the remaining balance of the original term at the time the new lease is executed. Owner shall be entitled to reasonable attorney fees required for the review and execution of said lease.

### **Section 9.4 No Third-Party Beneficiaries**

Except for the rights of the Lenders set forth above, no provision of this Lease is intended to nor shall it inure to the benefit of any third party so as to constitute any such person as a third-party beneficiary under this Lease, or of anyone or more of the terms of this Lease, or otherwise give rise to any cause of action in any person not a Party to this Lease.

### **Section 9.5 Entire Agreement**

It is mutually understood and agreed that this Lease constitutes the entire agreement between Owner and Tenant and supersedes any and all prior oral or written understandings, representations or statements, and that no understandings, representations or statements, verbal or written, have been made which modify, amend, qualify or affect the terms of this Lease. This Lease may not be amended except in a writing executed by both Parties.

### **Section 9.6 Governing Law**

This Lease is made in Oregon and shall be governed by the laws of the State of Oregon.

### **Section 9.7 Additional Actions**

Each of the Parties, without further consideration, agrees to execute and deliver such additional documents and take such action as may be reasonably necessary to carry out the purposes and intent of this Lease and to fulfill the obligations of the respective Parties.

### **Section 9.8 Waiver**

Neither Party shall be deemed to have waived any provision of this Lease or any remedy available to it unless such waiver is in writing and signed by the Party against whom the waiver would operate. Any waiver at any time by either Party of its rights with respect to

any rights arising in connection with this Lease shall not be deemed a waiver with respect to any subsequent or other matter.

**Section 9.9 Relationship of Parties**

The duties, obligations and liabilities of each of the Parties are intended to be several and not joint or collective. This Lease shall not be interpreted or construed to create an association, joint venture, fiduciary relationship or partnership between Owner and Tenant or to impose any partnership obligation or liability or any trust or agency obligation or relationship upon either Party. Owner and Tenant shall not have any right, power, or authority to enter any agreement or undertaking for, or act on behalf of, or to act or be an agent or representative of, or to otherwise bind, the other Party. The Parties do not intend that this Lease grant to Owner any rights in Tenant's Solar Facilities or output therefrom (including capacity, energy, and environmental attributes) or revenue therefrom, except as collections for non-payment of rent or decommissioning.

**Section 9.10 Confidentiality**

The Parties acknowledge that during the course of the performance of their respective obligations under this Lease, either Party may need to provide information to the other Party that the disclosing Party deems to be confidential, proprietary or a trade secret. Any such information that is marked confidential shall be treated confidential by the receiving Party and shall not be disclosed to any other person without the prior consent of the disclosing Party.

**Section 9.11 Survival of Covenants**

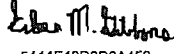
The Parties acknowledge that the covenants, conditions, rights, and restrictions in favor of Tenant pursuant to this Agreement including, but not limited to, the easements described in Section 1.1, and Tenant's use of and benefit from those covenants, conditions, rights and restrictions, may constitute a portion of a larger solar energy project with which Owner's Property will share structural and transmission components, ingress and egress, utility access, and other support, all of which are specifically designed to be interrelated and integrated in operation and use for the full life of the project, and that the covenants, conditions, rights, and restrictions in favor of Tenant pursuant to this Agreement shall not be deemed nominal, invalid, inoperative, or otherwise disregarded while any portion of the project remains operational.

**Section 9.12 Counterparts**


This Agreement may be executed in two or more counterparts and by different Parties on separate counterparts, all of which shall be considered one and the same agreement and each of which shall be deemed an original.

[SIGNATURE PAGE FOLLOWS]

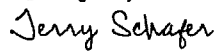
OWNER

DocuSigned by:  
  
5444F40D3D6A460...  
Eileen Gibbons, Treasurer  
Ewauna Park, LLC  
Co-trustee Juanita Goode Trust

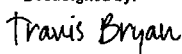
OWNER

DocuSigned by:  
  
20AEB02CDFDE4EB...  
Keith Goode, President  
Ewauna Park, LLC  
Co-trustee Juanita Goode Trust

OWNER

DocuSigned by:  
  
B34FADB26A6D463...  
Terry Schafer, Vice President  
Ewauna Park, LLC

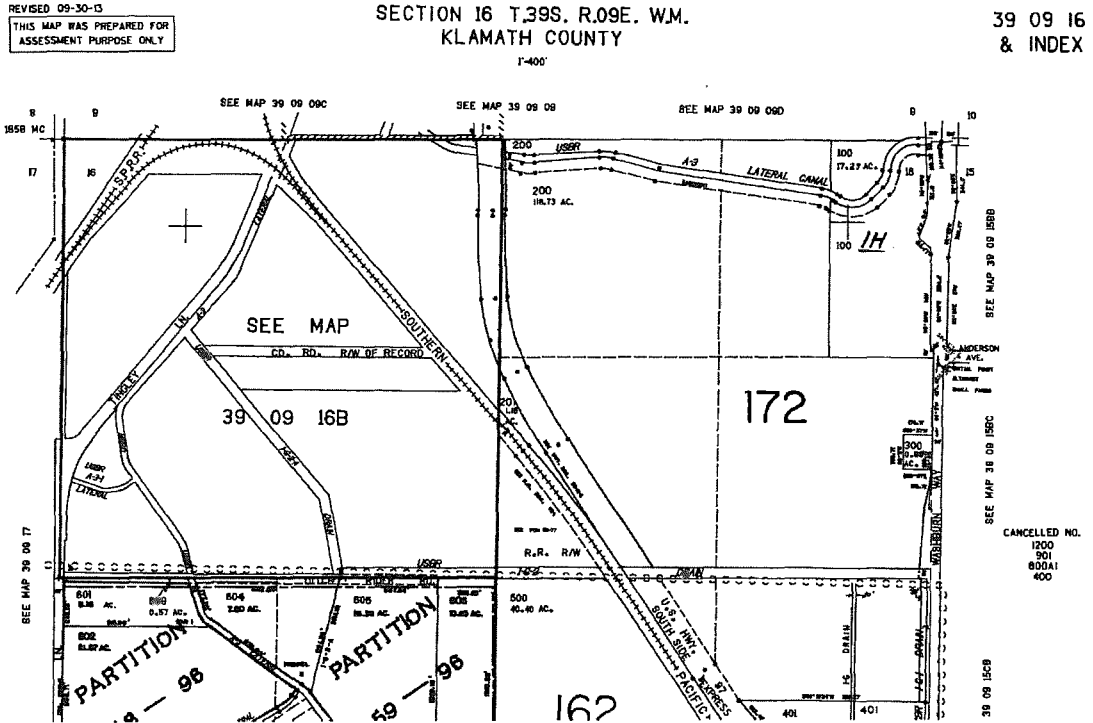
TENANT

OneEnergy Oregon Solar, LLC  
DocuSigned by:  
  
D18DD8A02E81477...  
OneEnergy Development, LLC, Member  
By: Travis Bryan, Manager



**EXHIBIT A TO LAND LEASE AND SOLAR EASEMENT**

MAP OF OWNER'S PROPERTY



The parcel in the above image is: Parcel 200, Section 16, T39S, R9E consisting of 119 acres.

**EXHIBIT B TO LAND LEASE AND SOLAR EASEMENT**

AREA OF INTEREST AND SOLAR PREMISES  
(TO BE UPDATED PRIOR TO OCCUPATION PERIOD)



The Area of Interest is approximately 119 acres located on Owner's Property.

**EXHIBIT C TO LAND LEASE AND SOLAR EASEMENT AGREEMENT:**  
**FORM OF MEMORANDUM OF LEASE**

[TO BE COMPLETED PRIOR TO CONSTRUCTION]

**MEMORANDUM OF LEASE**

This Memorandum of Lease is made by and between Owner and Tenant pursuant to \_\_\_\_\_ Revised Code Section \_\_\_\_\_, who represent as follows:

1. The Owner is \_\_\_\_\_.
2. The Tenant is OneEnergy \_\_\_\_\_, LLC, a(n) \_\_\_\_\_ limited liability company.
3. Owner and Tenant entered into a certain Land Lease and Solar Easement dated \_\_\_\_\_ (the "Lease") covering certain premises situated in \_\_\_\_\_ County, \_\_\_\_\_, as more fully described in Exhibit "C", attached hereto, which Premises constitute a portion of the real property owned by Owner as more particularly described in Exhibits "A" and "B" attached hereto.
4. The term of the Lease is \_\_\_\_\_ years, commencing on \_\_\_\_\_ and ending on \_\_\_\_\_.
5. It is understood that the purpose of this instrument is to evidence of record, pursuant to Section \_\_\_\_\_ Revised Code of \_\_\_\_\_, a leasehold estate, the terms and conditions of which are contained in the aforementioned Lease. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Lease. In the event of any conflict between the provisions of the Lease and this Memorandum, the provisions of the Lease shall control.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

OWNER:  
\_\_\_\_\_

TENANT:  
OneEnergy \_\_\_\_\_, LLC

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 )ss  
COUNTY OF \_\_\_\_\_ )

BEFORE ME, a Notary Public in and for said State and County, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, Owner in the foregoing instrument, who acknowledged that he/she did sign the instrument as his/her free act and deed, and the free act and deed of Owner, for the purposes therein contained.

IN WITNESS WHEREOF, I have set my hand and official seal this \_\_\_\_ of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

STATE OF \_\_\_\_\_ )  
 )ss  
COUNTY OF \_\_\_\_\_ )

BEFORE ME, a Notary Public in and for said State and County, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of OneEnergy \_\_\_\_\_, LLC, a(n) \_\_\_\_\_ limited liability company, Tenant in the foregoing instrument, who acknowledged that he did sign the instrument as his free act and deed, and the free act and deed of Tenant, for the purposes therein contained.

IN WITNESS WHEREOF, I have set my hand and official seal this \_\_\_\_ of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

**EXHIBIT D TO LAND LEASE AND SOLAR EASEMENT**

**ENCUMBRANCES AND LIENS AGAINST OWNER'S PROPERTY**

**EXHIBIT D-1**  
**SELLER'S MOTIVE FORCE PLAN**

**A. MONTHLY DELIVERY SCHEDULES AND SCHEDULED MAINTENANCE**

<b>Month</b>	<b>Average Energy (kWh)</b>
January	244,300
February	352,300
March	595,600
April	689,100
May	816,100
June	929,700
July	961,000
August	895,200
September	728,800
October	519,400
November	281,600
December	227,100

Seller provide an estimate of the average monthly Net Output of the Facility, and explain the basis for the estimate.

**B. MINIMUM ANNUAL DELIVERY CALCULATION**

Seller specify the Minimum Annual Delivery of the Facility, and explain the basis for the estimate. NOTE: The Minimum Annual Delivery should be based on the most adverse natural motive force conditions reasonably expected and should take into account maintenance and Seller's load (if any).

Minimum annual delivery is 3,981,000 kWh which is approximately 60% of the minimum expected (warranted) production in 2037 considering degradation of solar cell production.

**C. MAXIMUM ANNUAL DELIVERY CALCULATION**

Seller specify the estimated Maximum Annual Delivery of the Facility, and explain the basis for the estimate.

Maximum annual delivery is 8,947,000 kWh which is approximately 22% above the expected actual production during the first year of commercial operation.

Table 1 12x24 Output (MWh)  
Project Ewauna Solar 2

	31	28	31	30	31	30	31	31	30	31	30	31	Average
	<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>Jun</u>	<u>Jul</u>	<u>Aug</u>	<u>Sep</u>	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>	
100	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
200	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
300	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
400	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
500	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
600	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
700	0.00	0.00	0.00	0.02	0.27	0.60	0.37	0.03	0.00	0.00	0.00	0.00	0.11
800	0.00	0.17	0.33	0.79	1.31	1.92	1.59	1.07	0.55	0.05	0.16	0.00	0.66
900	0.58	1.07	1.55	1.99	1.89	2.61	2.46	2.51	2.02	1.06	1.04	0.57	1.61
1000	1.01	1.66	2.18	2.24	2.28	2.71	2.59	2.68	2.65	2.04	1.26	1.09	2.03
1100	0.87	1.44	2.25	2.29	2.55	2.73	2.70	2.77	2.67	2.10	1.26	1.08	2.06
1200	0.95	1.51	1.98	2.13	2.43	2.61	2.78	2.74	2.51	1.93	1.13	0.86	1.96
1300	0.93	1.54	1.92	2.17	2.43	2.58	2.77	2.67	2.35	1.75	1.18	0.91	1.94
1400	1.02	1.36	1.91	2.29	2.36	2.53	2.72	2.56	2.48	1.82	1.26	0.99	1.94
1500	1.26	1.57	1.85	2.09	2.40	2.61	2.63	2.58	2.47	1.86	1.29	1.13	1.98
1600	1.11	1.37	1.89	1.97	2.15	2.71	2.62	2.70	2.36	1.89	0.77	0.74	1.86
1700	0.19	0.90	1.78	2.09	2.25	2.45	2.60	2.65	2.23	1.73	0.08	0.00	1.58
1800	0.00	0.04	1.25	1.91	2.10	2.28	2.48	2.42	1.63	0.56	0.00	0.00	1.23
1900	0.00	0.00	0.37	0.96	1.50	1.89	1.99	1.35	0.43	0.01	0.00	0.00	0.71
2000	0.00	0.00	0.00	0.06	0.45	0.77	0.73	0.18	0.00	0.00	0.00	0.00	0.18
2100	0.00	0.00	0.00	0.00	0.00	0.01	0.01	0.00	0.00	0.00	0.00	0.00	0.00
2200	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2300	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2400	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Daily	7.88	12.58	19.21	22.97	26.32	30.99	31.00	28.88	24.29	16.76	9.39	7.33	Total Annual:
Total Month	244.25	352.27	595.57	689.09	816.06	929.74	961.02	895.22	728.82	519.45	281.59	227.13	<b>7240.22</b>

**EXHIBIT D-2**  
**ENGINEER'S CERTIFICATION OF**  
**MOTIVE FORCE PLAN**

*Seller provide a written declaration from a Licensed Professional Engineer to PacifiCorp that the Facility is likely capable under average conditions foreseeable during the term of this Agreement of meeting Seller's estimated average, maximum, and minimum Net Output.*

See attached letter and PVsyst report





TriAxis Engineering, Inc.  
301 NE 117<sup>th</sup> Avenue  
Vancouver, WA 98684  
360-260-3900

April 28, 2015

PacifiCorp  
825 NE Multnomah Street  
Portland, Oregon 97232

Subject: Engineer's Certification of Motive Force Plan  
Ewauna Park Photovoltaic Power Generation Project

Dear Sirs:

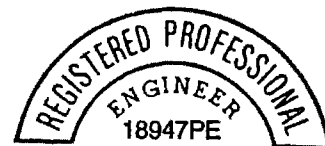
I have reviewed Exhibit D-1 Seller's Motive Force Plan and the PVSYST design calculations dated April 28, 2015, for the OER Ewauna Park PH2 photovoltaic power project near Klamath Falls, Oregon. My assessment is that the proposed 2.9-MWac solar photovoltaic energy project is likely capable of providing the estimated average, maximum, and minimum net output for the term of this Agreement.

This assessment is based on average conditions that are foreseeable during the contract period and that are discussed in the above-mentioned documents.

Respectfully,

A handwritten signature in black ink that reads "M D Beanland".

Michael Beanland, P.E.  
Senior Electrical Engineer



Expires 12-31-2015

## Grid-Connected System: Simulation parameters

<b>Project :</b>	<b>Grid-Connected Project at EwaunaPark</b>			
<b>Geographical Site</b>	<b>EwaunaPark</b>	<b>Country</b>	<b>USA</b>	
<b>Situation</b>	Latitude	42.1°N	Longitude	121.7°W
Time defined as	Legal Time	Time zone UT-8	Altitude	1250 m
	Albedo	0.20		
<b>Meteo data:</b>	<b>EwaunaPark Typical DNI Year</b>	<b>TMY - NREL US TMY2</b>		

**Simulation variant :** **OER Ewauna Park PH2, Tracking, 3.696MWDC, 2.9MWAC, Solectria, GCR 42%**

Simulation date 28/04/15 09h25

### Simulation parameters

<b>Tracking plane, tilted Axis</b>	Axis Tilt	0°	Axis Azimuth	0°	
Rotation Limitations	Minimum Phi	-45°	Maximum Phi	45°	
<b>Backtracking strategy</b>	Tracker Spacing	4.67 m	Collector width	1.96 m	
Inactive band	Left	0.03 m	Right	0.03 m	
<b>Models used</b>	Transposition	Perez	Diffuse	Imported	
<b>Horizon</b>	Free Horizon				
<b>Near Shadings</b>	No Shadings				
<b>PV Arrays Characteristics (2 kinds of array defined)</b>					
<b>PV module</b>	Si-poly	Model	<b>CS6X - 320P</b>		
		Manufacturer	Canadian Solar Inc.		
<b>Sub-array "Sub-array #1"</b>	Orientation	#0	Tilt/Azimuth	0°/30°	
Number of PV modules	In series	19 modules	In parallel	569 strings	
Total number of PV modules	Nb. modules	10811	Unit Nom. Power	320 Wp	
Array global power	Nominal (STC)	<b>3460 kWp</b>	At operating cond.	3084 kWp (50°C)	
Array operating characteristics (50°C)	U mpp	618 V	I mpp	4988 A	
<b>Sub-array "Sub-array #2"</b>	Orientation	#0	Tilt/Azimuth	0°/30°	
Number of PV modules	In series	17 modules	In parallel	43 strings	
Total number of PV modules	Nb. modules	731	Unit Nom. Power	320 Wp	
Array global power	Nominal (STC)	<b>234 kWp</b>	At operating cond.	209 kWp (50°C)	
Array operating characteristics (50°C)	U mpp	553 V	I mpp	377 A	
<b>Total</b>	Arrays global power	Nominal (STC)	<b>3693 kWp</b>	Total	11542 modules
		Module area	<b>22147 m²</b>	Cell area	20227 m²
<b>Sub-array "Sub-array #1" : Inverter</b>					
	Model	<b>PVI 28TL 480V</b>			
	Manufacturer	Solectria Renewables			
Characteristics	Operating Voltage	500-800 V	Unit Nom. Power	28.0 kWac	
Inverter pack	Nb. of inverters	194 * MPPT 50 %	Total Power	2716 kWac	
<b>Sub-array "Sub-array #2" : Inverter</b>					
	Model	<b>PVI 23TL 480V</b>			
	Manufacturer	Solectria Renewables			
Characteristics	Operating Voltage	480-800 V	Unit Nom. Power	23.0 kWac	
Inverter pack	Nb. of inverters	16 * MPPT 50 %	Total Power	184 kWac	
<b>Total</b>	Nb. of inverters	105	Total Power	2900 kWac	

Grid-Connected System: Simulation parameters (continued)

**PV Array loss factors**

Array Soiling Losses		Loss Fraction	3.0 %
Thermal Loss factor	Uc (const) 29.0 W/m²K	Uv (wind)	0.0 W/m²K / m/s
Wiring Ohmic Loss	Array#1 1.6 mOhm	Loss Fraction	1.1 % at STC
	Array#2 1.6 mOhm	Loss Fraction	0.1 % at STC
	Global	Loss Fraction	0.7 % at STC
Module Quality Loss		Loss Fraction	0.0 %
Module Mismatch Losses		Loss Fraction	2.0 % at MPP

Incidence effect, user defined profile

10°	20°	30°	40°	50°	60°	70°	80°	90°
1.00	1.00	1.00	1.00	1.00	0.99	0.92	0.73	0.00

**System loss factors**

AC wire loss inverter to transfo	Inverter voltage	480 Vac tri	
	Wires	131 m 3x3000.0 mm²	Loss Fraction 1.3 % at STC
External transformer	Iron loss (24H connexion)	3619 W	Loss Fraction 0.1 % at STC
	Resistive/Inductive losses	0.6 mOhm	Loss Fraction 1.0 % at STC

**User's needs :** Unlimited load (grid)

### Grid-Connected System: Main results

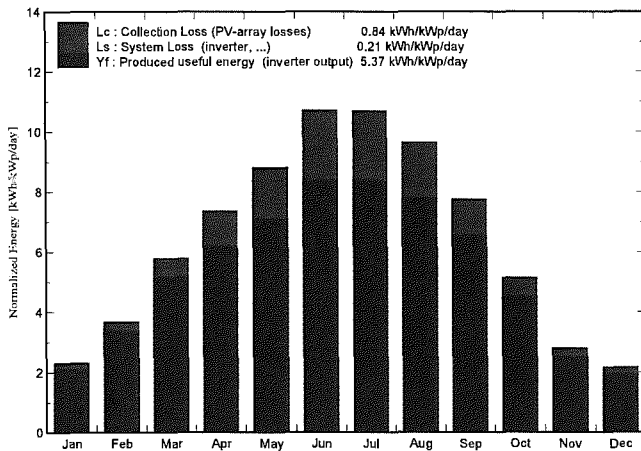
**Project :** Grid-Connected Project at EwaunaPark  
**Simulation variant :** OER Ewauna Park PH2, Tracking, 3.696MWDC, 2.9MWAC, Solectria, GCR 42%

<b>Main system parameters</b>		<b>System type</b>	<b>Grid-Connected</b>
PV Field Orientation	tracking, tilted axis, Axis Tilt	0°	Axis Azimuth 0°
PV modules	Model	CS6X - 320P	Pnom 320 Wp
PV Array	Nb. of modules	11542	Pnom total <b>3693 kWp</b>
Inverter	Model	PVI 28TL 480V	Pnom 28.00 kW ac
Inverter	Model	PVI 23TL 480V	Pnom 23.00 kW ac
Inverter pack	Nb. of units	105.0	Pnom total <b>2900 kW ac</b>
User's needs	Unlimited load (grid)		

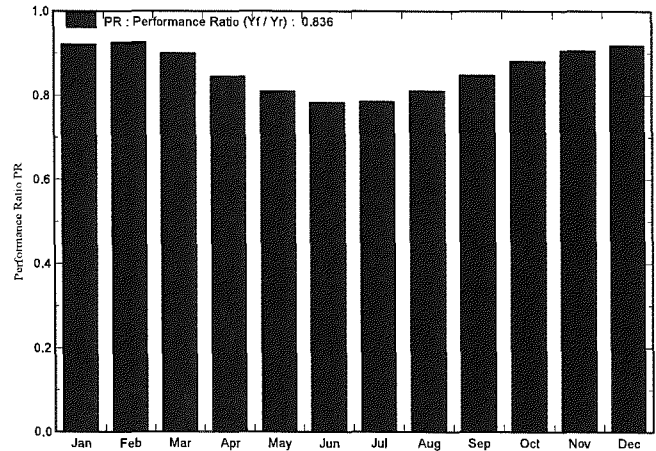
**Main simulation results**

**System Production**                      **Produced Energy** **7240 MWh/year**      **Specific prod.** 1960 kWh/kWp/year  
**Performance Ratio PR** 83.6 %

**Normalized productions (per installed kWp): Nominal power 3693 kWp**



**Performance Ratio PR**



**OER Ewauna Park PH2, Tracking, 3.696MWDC, 2.9MWAC, Solectria, GCR 42%**

**Balances and main results**

	GlobHor kWh/m²	T Amb °C	GlobInc kWh/m²	GlobEff kWh/m²	EArray MWh	E_Grid MWh	EffArrR %	EffSysR %
<b>January</b>	53.0	-0.01	71.8	67.9	254.8	244.3	16.03	15.37
<b>February</b>	77.2	0.29	103.0	98.2	366.1	352.3	16.05	15.44
<b>March</b>	132.1	1.48	179.2	171.6	618.1	595.6	15.57	15.00
<b>April</b>	167.2	6.03	220.9	211.7	715.6	689.1	14.62	14.08
<b>May</b>	212.7	8.49	273.1	262.1	847.4	816.1	14.01	13.49
<b>June</b>	243.0	13.61	321.4	309.3	966.2	929.7	13.57	13.06
<b>July</b>	250.5	19.38	331.5	319.2	999.0	961.0	13.61	13.09
<b>August</b>	220.9	17.25	299.0	287.9	931.0	895.2	14.06	13.52
<b>September</b>	169.6	14.78	232.8	223.7	757.2	728.8	14.69	14.14
<b>October</b>	115.2	10.83	159.7	153.1	539.4	519.4	15.25	14.68
<b>November</b>	61.8	5.76	84.1	79.9	292.8	281.6	15.72	15.11
<b>December</b>	48.9	-1.10	67.0	63.0	237.0	227.1	15.98	15.31
<b>Year</b>	1752.0	8.11	2343.5	2247.6	7524.7	7240.2	14.50	13.95

Legends: GlobHor Horizontal global irradiation      EArray Effective energy at the output of the array  
 T Amb Ambient Temperature      E\_Grid Energy injected into grid  
 GlobInc Global incident in coll. plane      EffArrR Effic. Eout array / rough area  
 GlobEff Effective Global, corr. for IAM and shadings      EffSysR Effic. Eout system / rough area

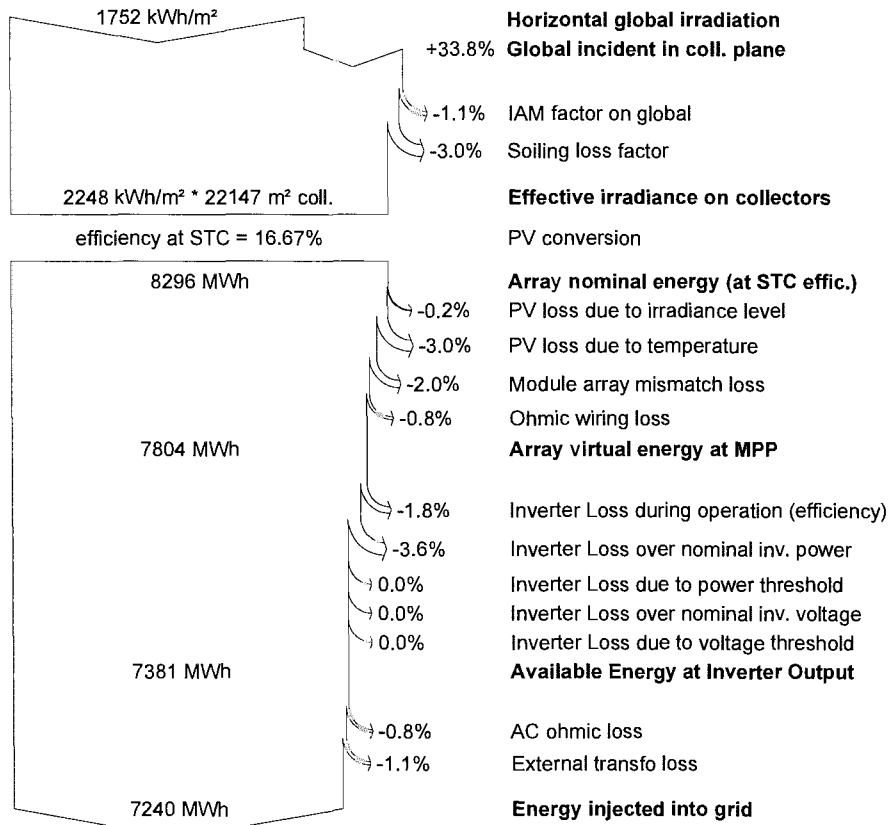
### Grid-Connected System: Loss diagram

**Project :** Grid-Connected Project at EwaunaPark

**Simulation variant :** OER Ewauna Park PH2, Tracking, 3.696MWDC, 2.9MWAC, Solectria, GCR 42%

Main system parameters		System type	Grid-Connected	
PV Field Orientation	tracking, tilted axis, Axis Tilt	0°	Axis Azimuth	0°
PV modules	Model	CS6X - 320P	Pnom	320 Wp
PV Array	Nb. of modules	11542	Pnom total	<b>3693 kWp</b>
Inverter	Model	PVI 28TL 480V	Pnom	28.00 kW ac
Inverter	Model	PVI 23TL 480V	Pnom	23.00 kW ac
Inverter pack	Nb. of units	105.0	Pnom total	<b>2900 kW ac</b>
User's needs	Unlimited load (grid)			

#### Loss diagram over the whole year



## EXHIBIT E

### START-UP TESTING

Start-Up Testing shall consist of the Quality Assurance/Quality Control plans and procedures developed by the EPC Contractor.

Contractor shall submit to Owner a final copy of its quality assurance/quality control (QA/QC) plan for review not later than 45 days after contract execution for Owner review and comment.

The QA/QC program shall include, but is not limited to, such procedures and systems as the following:

- Road construction
- Rebar and conduit placement
- Concrete placement and testing
- All wire insulation testing—Megger testing or very low frequency testing
- Mechanical system—trackers, mounting structures, tracker controls
- Factory testing of inverters and transformers by the manufacturer
- PV source open-circuit measurements—VOC at combiner boxes
- Fuse tests
- Termination pull testing
- All visual inspections
- Grounding continuity testing
- Earth-ground resistivity testing
- PV module inspection and manufacturer documentation of factory test per the manufacturer's existing program
- Metering and instrumentation calibration testing
- Step-up transformer field testing
- Inverter phase rotation and matching with utility
- Relay settings/transfer trip/etc. at the point of interconnection to Owner
- Other Contractor-prescribed procedures

All QA/QC testing procedures onsite shall be witnessed and documented by a qualified representative of Contractor. Owner shall observe and witness QA/QC as necessary and at its discretion. A qualified field engineer/QA representative of Contractor shall date and sign documentation indicating completion and acceptance of each onsite QA/QC test procedures.

Following installation, Contractor shall provide a proposed commissioning and startup plan for the Plant.

Contractor shall coordinate with Owner to develop an acceptable commissioning plan that includes a checkout and startup procedure. This work will assure: that systems are activated in a manner that is safe for personnel as well as for the equipment, that Contractor work is complete and according to the contract documents, and that the systems perform as required by the contract documents and are ready to be turned over to Owner. As the construction and installation of the systems nears completion, Contractor shall prepare punch lists and conduct system walk-downs, sub-system and system checkouts, startups, testing, and turnovers.

The final approved Commissioning Procedures shall, at minimum, include the following:

- Safety plan during startup and commissioning
- Review of all QA/QC testing on the DC and AC sides of inverters
- Detailed procedure for PV Plant startup, including switching sequencing
- Confirm testing and energizing inverters in conformance with manufacturer's recommended procedures; note operating voltages; and confirm inverter is performing as expected
- Under full sun conditions, and after at least 15 minutes of operation, taking and recording PV Plant operating data—such as but not limited to MWDC, MWAC, VDC, VAC, IDC, IAC, Solar Radiation, etc.
- Testing the system control and monitoring system to verify that it is performing correctly
- Testing the communication system for offsite monitoring

- Testing the Plant metering and protective relaying in conjunction with the utility during energization procedures
- Detailed procedure for interface and initialization with the grid
- Documentation of successful startup and commissioning procedure
- Written notification submitted by Contractor to Owner that the completion of Commissioning has occurred

Upon successful completion of energizing and startup, the Plant will be considered operable.

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

See attached letter



## **Seller Authorization to Release Generation Data to PacifiCorp**

Transmission Services  
Attn: Senior Vice President, Transmission Services  
825 NE Multnomah, Suite 1600  
Portland, OR 97232

### **RE: Q624 Interconnection Request**

Dear Sir:

Ewauna Solar, LLC ("Ewauna") hereby voluntarily authorizes PacifiCorp's Transmission business unit to share Ewauna's generator interconnection information and generator meter data with Marketing Affiliate employees of PacifiCorp Energy, including, but not limited to those in the Commercial and Trading group. Ewauna acknowledges that PacifiCorp did not provide it any preferences, either operational or rate-related, in exchange for this voluntary consent.



---

William Eddie  
President, OneEnergy Development, LLC (sole owner and manager,  
Ewauna Solar, LLC

May 27, 2016

---

Date

**EXHIBIT G**  
**SCHEDULE 37 AND PRICING SUMMARY TABLE**

	On-Peak (cents/kWh)	Off-Peak (cents/kWh)
2017	4.06	3.01
2018	4.33	3.20
2019	4.55	3.41
2020	4.78	3.84
2021	4.92	4.25
2022	5.58	4.83
2023	5.79	5.02
2024	8.84	7.36
2025	9.01	7.49
2026	9.17	7.64
2027	9.34	7.78
2028	9.52	7.94
2029	9.68	8.11
2030	9.85	8.28
2031	10.03	8.46
2032 – Nov 29	10.21	8.66
2032 – Nov 30	Index Prices	Index Prices
2033	Index Prices	Index Prices
2034	Index Prices	Index Prices
2035	Index Prices	Index Prices
2036	Index Prices	Index Prices
2037	Index Prices	Index Prices
OR Schedule 37 Effective: 8/20/2014		

**AVOIDED COST PURCHASES FROM  
QUALIFYING FACILITIES OF 10,000 KW OR LESS**

**Available**

To owners of Qualifying Facilities making sales of electricity to the Company in the State of Oregon.

**Applicable**

For power purchased from Qualifying Facilities with a nameplate capacity of 10,000 kW or less or that, together with any other electric generating facility using the same motive force, owned or controlled by the same person(s) or affiliated person(s), and located at the same site, has a nameplate capacity of 10,000 kW or less. Owners of these Qualifying Facilities will be required to enter into a written power sales contract with the Company.

**Definitions**

**Cogeneration Facility**

A facility which produces electric energy together with steam or other form of useful energy (such as heat) which are used for industrial, commercial, heating or cooling purposes through the sequential use of energy.

**Qualifying Facilities**

Qualifying cogeneration facilities or qualifying small power production facilities within the meaning of section 201 and 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 796 and 824a-3.

**Qualifying Electricity**

Electricity that meets the requirements of "qualifying electricity" set forth in the Oregon Renewable Portfolio Standards: ORS 469A.010, 469A.020, and 469A.025.

**Renewable Qualifying Facility**

A Qualifying Facility that generates Qualifying Electricity.

**Wind Qualifying Facility**

A Renewable Qualifying Facility that generates Qualifying Electricity using wind as its motive force.

**Baseload Renewable Qualifying Facility**

A Renewable Qualifying Facility that generates Qualifying Electricity using any qualifying resource other than wind or solar.

**Small Power Production Facility**

A facility which produces electric energy using as a primary energy source biomass, waste, renewable resources or any combination thereof and has a power production capacity which, together with other facilities located at the same site, is not greater than 80 megawatts.

**On-Peak Hours or Peak Hours**

On-Peak hours are defined as 6:00 a.m. to 10:00 p.m. Pacific Prevailing Time Monday through Saturday, excluding NERC holidays.

Due to the expansions of Daylight Saving Time (DST) as adopted under Section 110 of the U.S. Energy Policy Act of 2005, the time periods shown above will begin and end one hour later for the period between the second Sunday in March and the first Sunday in April and for the period between the last Sunday in October and the first Sunday in November.

(continued)

**Definitions (continued)****Off-Peak Hours**

All hours other than On-Peak.

**Excess Output**

Excess Output shall mean any increment of Net Output delivered at a rate, on an hourly basis, exceeding the Facility Nameplate Capacity. PacifiCorp shall pay Seller the Off-Peak Price as described and calculated under pricing option 4 (Non-Firm Market Index Avoided Cost Price) for all Excess Output.

**Same Site**

Generating facilities are considered to be located at the same site as the QF for which qualification for the standard rates and standard contract is sought if they are located within a five-mile radius of any generating facilities or equipment providing fuel or motive force associated with the QF for which qualification for the standard rates and standard contract is sought.

**Person(s) or Affiliated Person(s)**

A natural person or persons or any legal entity or entities sharing common ownership, management or acting jointly or in concert with or exercising influence over the policies or actions of another person or entity. Two facilities will not be held to be owned or controlled by the same person(s) or affiliated person(s) solely because they are developed by a single entity. Two facilities will not be held to be owned or controlled by the same person(s) or affiliated person(s) if such common person or persons is a "passive investor" whose ownership interest in the QF is primarily related to utilizing production tax credits, green tag values and MACRS depreciation as the primary ownership benefit and the facilities at issue are independent family-owned or community-based projects. A unit of Oregon local government may also be a "passive investor" in a community-based project if the local governmental unit demonstrates that it will not have an equity ownership interest in or exercise any control over the management of the QF and that its only interest is a share of the cash flow from the QF, which share will not exceed 20%. The 20% cash flow share limit may only be exceeded for good cause shown and only with the prior approval of the Commission.

**Shared Interconnection and Infrastructure**

QFs otherwise meeting the separate ownership test and thereby qualified for entitlement to the standard rates and standard contract will not be disqualified by utilizing an interconnection or other infrastructure not providing motive force or fuel that is shared with other QFs qualifying for the standard rates and standard contract so long as the use of the shared interconnection complies with the interconnecting utility's safety and reliability standards, interconnection contract requirements and Prudent Electrical Practices as that term is defined in the interconnecting utility's approved standard contract.

**Dispute Resolution**

Upon request, the QF will provide the purchasing utility with documentation verifying the ownership, management and financial structure of the QF in reasonably sufficient detail to allow the utility to make an initial determination of whether or not the QF meets the above-described criteria for entitlement to the standard rates and standard contract.

(continued)

**AVOIDED COST PURCHASES FROM  
QUALIFYING FACILITIES OF 10,000 KW OR LESS**

Page 3

**Dispute Resolution (continued)**

Any dispute concerning a QF's entitlement to the standard rates and standard contract shall be presented to the Commission for resolution.

**Self Supply Option**

Owner shall elect to sell all Net Output to PacifiCorp and purchase its full electric requirements from PacifiCorp or sell Net Output surplus to its needs at the Facility site to PacifiCorp and purchase partial electric requirements service from PacifiCorp, in accordance with the terms and conditions of the power purchase agreement and the appropriate retail service.

**Pricing Options****1. Standard Fixed Avoided Cost Prices**

Prices are fixed at the time that the contract is signed by both the Qualifying Facility and the Company and will not change during the term of the contract. Standard Fixed Avoided Cost Prices are available for a contract term of up to 15 years and prices under a longer term contract (up to 20 years) will thereafter be under the Firm Market Indexed Avoided Cost Price. The Standard Fixed Avoided Cost pricing option is available to all Qualifying Facilities. The Standard Fixed Avoided Cost Price for Wind Qualifying Facilities will reflect integration costs as set forth on page 5.

**2. Renewable Fixed Avoided Cost Prices**

Prices are fixed at the time that the contract is signed by both the Renewable Qualifying Facility and the Company and will not change during the term of the contract. Renewable Fixed Avoided Cost Prices are available for a contract term of up to 15 years and prices under a longer term contract (up to 20 years) will thereafter be under the Firm Market Indexed Avoided Cost Price. The Renewable Fixed Avoided Cost pricing option is available only to Renewable Qualifying Facilities. A Renewable Qualifying Facility choosing the Renewable Fixed Avoided Cost pricing option must cede all Green Tags generated by the facility, as defined in the standard contract, to the Company during the Renewable Resource Deficiency Period identified on page 6, except that a Renewable Qualifying Facility retains ownership of all Environmental Attributes generated by the facility, as defined in the standard contract, during the Renewable Resource Sufficiency Period identified on page 6 and during any period after the first 15 years of a longer term contract (up to 20 years).

**3. Firm Market Indexed Avoided Cost Prices**

Firm Market Index Avoided Cost Prices are available to Qualifying Facilities that contract to deliver firm power. Monthly on-peak / off-peak prices paid are a blending of Intercontinental Exchange (ICE) Day Ahead Power Price Report at market hubs for on-peak and off-peak prices. The monthly blending matrix is available upon request.

**4. Non-Firm Market Index Avoided Cost Prices**

Non-Firm Market Index Avoided Cost Prices are available to Qualifying Facilities that do not elect to provide firm power. Qualifying Facilities taking this option will have contracts that do not include minimum delivery requirements, default damages for construction delay or, for under delivery or early termination, or default security for these purposes. Monthly On-Peak / Off-Peak prices paid are 93 percent of a blending of ICE Day Ahead Power Price Report at market hubs for on-peak and off-peak firm index prices. The monthly blending matrix is available upon request. The Non-Firm Market Index Avoided Cost pricing option is available to all Qualifying Facilities. The Non-Firm Market Index Avoided Cost Price for Wind Qualifying Facilities will reflect integration costs.

(continued)

**AVOIDED COST PURCHASES FROM  
QUALIFYING FACILITIES OF 10,000 KW OR LESS**

---

**Monthly Payments**

A Qualifying Facility shall select the option of payment at the time of signing the contract under one of the Pricing Options specified above. Once an option is selected the option will remain in effect for the duration of the Facility's contract.

**Renewable or Standard Fixed Avoided Cost Prices**

In accordance with the terms of a contract with a Qualifying Facility, the Company shall pay for all separately metered kilowatt-hours of On-Peak and Off-Peak generation at the renewable or standard fixed prices as provided in this schedule. On-Peak and Off-Peak are defined in the definitions section of this schedule.

**Firm Market Indexed and Non-Firm Market Index Avoided Cost Prices**

In accordance with the terms of a contract with a Qualifying Facility, the Company shall pay for all separately metered kilowatt-hours of On-Peak and Off-Peak generation at the market prices calculated at the time of delivery. On-Peak and Off-Peak are defined in the definitions section of this schedule.

(continued)

**AVOIDED COST PURCHASES FROM  
 QUALIFYING FACILITIES OF 10,000 KW OR LESS**
**Avoided Cost Prices**
**Standard Fixed Avoided Cost Prices**

Fixed Prices ¢/kWh						
Deliveries During Calendar Year	Base Load QF (1)		Wind QF (2)		Solar QF	
	On-Peak Energy Price	Off-Peak Energy Price	On-Peak Energy Price	Off-Peak Energy Price	On-Peak Energy Price	Off-Peak Energy Price
	(a)	(b)	(c)	(d)	(e)	(f)
2014	3.98	2.62	3.71	2.35	3.98	2.62
2015	3.94	2.86	3.67	2.59	3.94	2.86
2016	3.85	2.84	3.58	2.57	3.85	2.84
2017	4.06	3.01	3.79	2.73	4.06	3.01
2018	4.33	3.20	4.04	2.92	4.33	3.20
2019	4.55	3.41	4.26	3.12	4.55	3.41
2020	4.78	3.84	4.48	3.54	4.78	3.84
2021	4.92	4.25	4.62	3.95	4.92	4.25
2022	5.58	4.83	5.28	4.53	5.58	4.83
2023	5.79	5.02	5.48	4.71	5.79	5.02
2024	6.97	3.91	3.72	3.59	4.32	3.91
2025	7.11	4.00	3.81	3.68	4.42	4.00
2026	7.31	4.13	3.94	3.80	4.56	4.13
2027	7.52	4.29	4.09	3.96	4.73	4.29
2028	7.74	4.44	4.24	4.11	4.89	4.44
2029	8.00	4.64	4.44	4.30	5.10	4.64
2030	8.25	4.83	4.62	4.48	5.30	4.83
2031	8.42	4.93	4.72	4.57	5.40	4.93
2032	8.59	5.03	4.81	4.66	5.51	5.03
2033	8.76	5.13	4.91	4.75	5.62	5.13
2034	8.94	5.23	5.01	4.85	5.74	5.23
2035	9.11	5.33	5.10	4.94	5.84	5.33
2036	9.30	5.44	5.21	5.05	5.97	5.44
2037	9.50	5.56	5.32	5.16	6.09	5.56
2038	9.70	5.68	5.44	5.27	6.22	5.68
2039	9.90	5.80	5.55	5.38	6.35	5.80
2040	10.11	5.91	5.66	5.48	6.48	5.91

- (1) Capacity Contribution to Peak for Avoided Proxy Resource and Base Load Qualifying Facility resource are assumed 100%.
- (2) The standard avoided cost price for wind is reduced by an integration charge of \$2.55/MWh (\$2012). If Wind Qualifying Facility is not in PacifiCorp's balancing authority area, then no reduction is required.

(continued)

**AVOIDED COST PURCHASES FROM  
QUALIFYING FACILITIES OF 10,000 KW OR LESS**
**Avoided Cost Prices (Continued)**
**Renewable Fixed Avoided Cost Prices**

Fixed Prices ¢/kWh			Renewable Fixed Avoided Cost Prices			
Deliveries During Calendar Year (1)	Base Load Renewable QF (2)		Wind QF (3,4)		Solar QF (5)	
	On-Peak Energy Price (a)	Off-Peak Energy Price (b)	On-Peak Energy Price (c)	Off-Peak Energy Price (d)	On-Peak Energy Price (e)	Off-Peak Energy Price (f)
2014	3.98	2.62	3.71	2.35	3.98	2.62
2015	3.94	2.86	3.67	2.59	3.94	2.86
2016	3.85	2.84	3.58	2.57	3.85	2.84
2017	4.06	3.01	3.79	2.73	4.06	3.01
2018	4.33	3.20	4.04	2.92	4.33	3.20
2019	4.55	3.41	4.26	3.12	4.55	3.41
2020	4.78	3.84	4.48	3.54	4.78	3.84
2021	4.92	4.25	4.62	3.95	4.92	4.25
2022	5.58	4.83	5.28	4.53	5.58	4.83
2023	5.79	5.02	5.48	4.71	5.79	5.02
2024	11.48	7.36	8.24	7.05	8.84	7.36
2025	11.70	7.49	8.39	7.17	9.01	7.49
2026	11.91	7.64	8.54	7.31	9.17	7.64
2027	12.14	7.78	8.71	7.45	9.34	7.78
2028	12.36	7.94	8.87	7.61	9.52	7.94
2029	12.58	8.11	9.02	7.77	9.68	8.11
2030	12.81	8.28	9.18	7.93	9.85	8.28
2031	13.05	8.46	9.34	8.10	10.03	8.46
2032	13.29	8.66	9.51	8.30	10.21	8.66
2033	13.53	8.87	9.68	8.50	10.39	8.87
2034	13.79	9.07	9.86	8.69	10.58	9.07
2035	14.04	9.27	10.03	8.89	10.78	9.27
2036	14.32	9.49	10.23	9.09	10.99	9.49
2037	14.59	9.72	10.42	9.32	11.19	9.72
2038	14.87	9.96	10.60	9.55	11.39	9.96
2039	15.15	10.21	10.80	9.79	11.60	10.21
2040	15.47	10.43	11.02	10.00	11.85	10.43

(1) For the purpose of determining: (1) when the Renewable Qualifying Facility is entitled to renewable avoided cost prices; and (2) the ownership of Environmental Attributes and the transfer of Green Tags to PacifiCorp, the Renewable Resource Sufficiency Period ends December 31, 2023, and the Renewable Resource Deficiency Period begins January 1, 2024.

(2) The renewable avoided cost price during the Renewable Resource Deficiency Period (2024-2040) has been increased by an integration charge of \$2.55/MWh (\$2012).

(3) During the Renewable Resource Deficiency Period, the renewable avoided cost price for a Wind Qualifying Facility will be adjusted by adding the difference between the avoided integration costs and the Qualifying Facility's integration costs. If the Wind Qualifying Facility is in PacifiCorp's balancing authority area (BAA), the adjustment is zero (integration costs cancel each other out). If the Wind Qualifying Facility is not in PacifiCorp's BAA, \$2.55/MWh (\$2012) will be added for avoided integration charges.

(4) During Renewable Resource Sufficiency Period, the renewable avoided cost price for a Wind Qualifying Facility has been reduced by an integration charge of \$2.55/MWh (\$2012) for Wind Qualifying Facilities located in PacifiCorp's BAA (in-system). If a Wind Qualifying Facility is not in PacifiCorp's BAA, \$2.55/MWh (\$2012) will be added for avoided integration charges.

(5) The renewable avoided cost payment during the Renewable Resource Deficiency Period (2024-2040) has been increased by an integration charge of \$2.55/MWh (\$2012).

(continued)



**Qualifying Facilities Contracting Procedure**

Interconnection and power purchase agreements are handled by different functions within the Company. Interconnection agreements (both transmission and distribution level voltages) are handled by the Company's transmission function (PacifiCorp Transmission Services) while power purchase agreements are handled by the Company's merchant function (PacifiCorp Commercial and Trading).

It is recommended that the owner initiate its request for interconnection 18 months ahead of the anticipated in-service date to allow time for studies, negotiation of agreements, engineering, procurement, and construction of the required interconnection facilities. Early application for interconnection will help ensure that necessary interconnection arrangements proceed in a timely manner on a parallel track with negotiation of the power purchase agreement.

**1. Qualifying Facilities up to 10,000 kW**

**APPLICATION:** To owners of existing or proposed QFs with a design capacity less than or equal to 10,000 kW who desire to make sales to the Company in the state of Oregon. Such owners will be required to enter into a written power purchase agreement with the Company pursuant to the procedures set forth below.

**I. Process for Completing a Power Purchase Agreement****A. Communications**

Unless otherwise directed by the Company, all communications to the Company regarding QF power purchase agreements should be directed in writing as follows:

PacifiCorp  
Manager-QF Contracts  
825 NE Multnomah St, Suite 600  
Portland, Oregon 97232

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

(continued)

**AVOIDED COST PURCHASES FROM  
QUALIFYING FACILITIES OF 10,000 KW OR LESS**

**B. Procedures**

1. The Company's approved generic or standard form power purchase agreements may be obtained from the Company's website at [www.pacificorp.com](http://www.pacificorp.com), or if the owner is unable to obtain it from the website, the Company will send a copy within seven days of a written request.
2. In order to obtain a project specific draft power purchase agreement the owner must provide in writing to the Company, general project information required for the completion of a power purchase agreement, including, but not limited to:
  - (a) demonstration of ability to obtain QF status;
  - (b) design capacity (MW), station service requirements, and net amount of power to be delivered to the Company's electric system;
  - (c) generation technology and other related technology applicable to the site;
  - (d) proposed site location;
  - (e) schedule of monthly power deliveries;
  - (f) calculation or determination of minimum and maximum annual deliveries;
  - (g) motive force or fuel plan;
  - (h) proposed on-line date and other significant dates required to complete the milestones;
  - (i) proposed contract term and pricing provisions as defined in this Schedule (i.e., standard fixed price, renewable fixed price);
  - (j) status of interconnection or transmission arrangements;
  - (k) point of delivery or interconnection;
3. The Company shall provide a draft power purchase agreement when all information described in Paragraph 2 above has been received in writing from the QF owner. Within 15 business days following receipt of all information required in Paragraph 2, the Company will provide the owner with a draft power purchase agreement including current standard avoided cost prices and/or other optional pricing mechanisms as approved by the Public Utility Commission of Oregon in this Schedule 37.
4. If the owner desires to proceed with the power purchase agreement after reviewing the Company's draft power purchase agreement, it may request in writing that the Company prepare a final draft power purchase agreement. In connection with such request, the owner must provide the Company with any additional or clarified project information that the Company reasonably determines to be necessary for the preparation of a final draft power purchase agreement. Within 15 business days following receipt of all information requested by the Company in this paragraph 4, the Company will provide the owner with a final draft power purchase agreement.

(continued)

**B. Procedures (continued)**

- 5 After reviewing the final draft power purchase agreement, the owner may either prepare another set of written comments and proposals or approve the final draft power purchase agreement. If the owner prepares written comments and proposals the Company will respond in 15 business days to those comments and proposals.
  
6. When both parties are in full agreement as to all terms and conditions of the draft power purchase agreement, the Company will prepare and forward to the owner within 15 business days, a final executable version of the agreement. Following the Company's execution a completely executed copy will be returned to the owner. Prices and other terms and conditions in the power purchase agreement will not be final and binding until the power purchase agreement has been executed by both parties.

**II. Process for Negotiating Interconnection Agreements**

[NOTE: Section II applies only to QFs connecting directly to PacifiCorp's electrical system. An off-system QF should contact its local utility or transmission provider to determine the interconnection requirements and wheeling arrangement necessary to move the power to PacifiCorp's system.]

In addition to negotiating a power purchase agreement, QFs intending to make sales to the Company are also required to enter into an interconnection agreement that governs the physical interconnection of the project to the Company's transmission or distribution system. The Company's obligation to make purchases from a QF is conditioned upon the QF completing all necessary interconnection arrangements. It is recommended that the owner initiate its request for interconnection 18 months ahead of the anticipated in-service date to help ensure that necessary interconnection arrangements proceed in a timely manner on a parallel track with negotiation of the power purchase agreement.

Because of functional separation requirements mandated by the Federal Energy Regulatory Commission, interconnection and power purchase agreements are handled by different functions within the Company. Interconnection agreements (both transmission and distribution level voltages) are handled by the Company's transmission function (including but not limited to PacifiCorp Transmission Services) while power purchase agreements are handled by the Company's merchant function (including but not limited to PacifiCorp's Commercial and Trading Group).

(continued)

**II. Process for Negotiating Interconnection Agreements (continued)**

**A. Communications**

Initial communications regarding interconnection agreements should be directed to the Company in writing as follows:

PacifiCorp  
Director – Transmission Services  
825 NE Multnomah St, Suite 1600  
Portland, Oregon 97232

Based on the project size and other characteristics, the Company will direct the QF owner to the appropriate individual within the Company's transmission function who will be responsible for negotiating the interconnection agreement with the QF owner. Thereafter, the QF owner should direct all communications regarding interconnection agreements to the designated individual, with a copy of any written communications to the address set forth above.

**B. Procedures**

Generally, the interconnection process involves (1) initiating a request for interconnection, (2) undertaking studies to determine the system impacts associated with the interconnection and the design, cost, and schedules for constructing any necessary interconnection facilities, and (3) executing an interconnection agreement to address facility construction, testing, acceptance, ownership, operation and maintenance issues. Consistent with PURPA and Oregon Public Utility Commission regulations, the owner is responsible for all interconnection costs assessed by the Company on a nondiscriminatory basis. For interconnections impacting the Company's Transmission and Distribution System, the Company will process the interconnection application through PacifiCorp Transmission Services.

**EXHIBIT H**  
**GREEN TAG ATTESTATION AND BILL OF SALE**

Subject to Green Tags ownership as defined in Section 5.5, from the period commencing on \_\_\_\_ and ending on \_\_\_\_\_, \_\_\_\_\_ ("Seller") hereby sells, transfers and delivers to PacifiCorp the Green Tags (including all Green Tag Reporting Rights) associated with the generation of Net Output under the Power Purchase Agreement (Renewable Energy) between Seller and PacifiCorp dated [\_\_\_\_\_] (the "PPA"), as described below, in the amount of one Green Tag for each megawatt hour generated. Defined terms used in this Green Tag Attestation and Bill of Sale (as indicated by initial capitalization) shall have the meaning set forth in the PPA.

Facility name and location: \_\_\_\_\_ Fuel Type: \_\_\_\_\_

Capacity (MW): \_\_\_\_\_ Operational Date: \_\_\_\_\_

Energy Admin. ID no.: \_\_\_\_\_

Dates	MWh generated
_____	_____

Seller further attests, warrants and represents, under penalty of perjury, as follows:

- i) to the best of its knowledge, the information provided herein is true and correct;
- ii) its sale to PacifiCorp is its one and only sale of the Green Tags referenced herein;
- iii) the Facility generated Output in the amount indicated above; and
- iv) to the best of Seller's knowledge, each of the Green Tags associated with the generation Output have been generated and sold by the Facility.

This Green Tag Attestation and Bill of Sale confirms, in accordance with the PPA, the transfer from Seller to PacifiCorp all of Seller's right, title and interest in and to the Green Tags (including Green Tag Reporting Rights), as set forth above.

Seller's Contact Person: [\_\_\_\_\_]

WITNESS MY HAND,

\_\_\_\_\_

a \_\_\_\_\_

By \_\_\_\_\_

Its \_\_\_\_\_

Date: \_\_\_\_\_

This Attestation may be disclosed by Seller and PacifiCorp to others, including the Center for Resource Solutions and the public utility commissions having jurisdiction over PacifiCorp, to substantiate and verify the accuracy of PacifiCorp's advertising and public communication claims, as well as in PacifiCorp's advertising and other public communications.