



## Portland General Electric Company

### Index Power Purchase Confirmation

<b>General Description:</b>	This Index Power Purchase Confirmation (“ <b>Confirmation</b> ”) is entered into and effective this <u>31<sup>st</sup></u> day of <u>March</u> , 2014. Covanta Marion, Inc. shall sell to Portland General Electric Company the entire Product generated by the Marion County Resource Recovery Facility, located in Brooks, Oregon (“ <b>Marion Facility</b> ”) in an amount up to the Contract Quantity at the Point of Delivery in exchange for a Product Payment based on the Contract Price. The Product must be scheduled in accordance with the Scheduling Procedures set forth herein.
<b>Seller:</b>	Covanta Marion, Inc. (“ <b>Covanta</b> ”)
<b>Buyer:</b>	Portland General Electric Company (“ <b>PGE</b> ”)
<b>Governing Contract:</b>	This Confirmation shall be governed by the EEI Cover Sheet dated _____, 2014 between Covanta and PGE and the underlying Master Power Purchase and Sale Agreement (Version 2.1; modified 4/25/00) referenced therein (collectively, the “ <b>Master Agreement</b> ”)  If there is any conflict between the terms set forth in this Confirmation and the Master Agreement, the terms set forth in this Confirmation shall govern. The Master Agreement, as modified and supplemented by this Confirmation (collectively, the “ <b>Agreement</b> ”), constitutes the complete and final agreement between the parties concerning the purchase and sale of the Product.
<b>Product:</b>	The “ <b>Product</b> ” means Firm Energy and Non-Firm Energy as defined below: <ul style="list-style-type: none"> <li>• “<b>Firm Energy</b>” means energy scheduled and delivered to PGE in an amount equal to the Scheduled Energy Quantity (defined in the Scheduling Procedure below) for each hour during the Delivery Period from the Marion Facility by Seller, expressly excluding all ancillary services and capacity.</li> <li>• “<b>Non-Firm Energy</b>” means energy delivered to PGE from the Marion Facility by Seller as generated and delivered to PGE in an amount in excess to the Scheduled Energy Quantity, expressly excluding all ancillary services and capacity.</li> </ul> <p>Seller retains all rights and obligations for any environmental attribute associated with the Product delivered from the Marion Facility to PGE.</p>
<b>Contract Quantity:</b>	Up to 15 MW
<b>Delivered Quantity:</b>	“ <b>Firm Quantity</b> ” means for each hour when the actual metered energy volume meets or exceeds the Scheduled Energy Quantity for that hour, the Scheduled Energy Quantity delivered to PGE from the Marion Facility by Seller for that hour shall be deemed Firm Energy and subject to the Firm Energy Price, except to the extent subject to the Schedule Deviation Adjustment (defined below). A “ <b>Schedule Deviation</b> ” applies for any hour during the Delivery Period when the actual metered energy volume does

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	<p>not meet or exceed the Scheduled Energy Quantity and such deviation is not the result of a Forced Outage (as defined by the NERC GADS Forced Outage reporting guidelines) of either or both boilers and/or the turbine at the Marion Facility . If more than 20 such Schedule Deviations occur in any one month during the Delivery Period, that day's Firm Quantity and all metered energy delivered for the balance of that month shall be considered Non-Firm Quantity and subject to Non-Firm Energy Price ("<b>Schedule Deviation Adjustment</b>").</p> <p>"<b>Non-Firm Quantity</b>" means for each hour, all actual metered energy delivered to PGE by the Marion Facility in excess of the Scheduled Energy Quantity, which excess shall be deemed Non-Firm Energy and subject to the Non-Firm Energy Price.</p>
<b>Delivery Period:</b>	The " <b>Delivery Period</b> " shall commence on July 1, 2014 and continues through and includes September 30, 2017 for all On-Peak Hours and Off-Peak Hours.
<b>Hours:</b>	<p>"<b>On-Peak Hours</b>" include hours ending 0700 through 2200, Pacific Prevailing Time ("<b>PPT</b>"), Monday through Saturday, excluding NERC Holidays.</p> <p>"<b>Off-Peak Hours</b>" include hours ending 0100-0600 and 2300-2400, PPT, Monday through Saturday plus all day Sundays and NERC holidays.</p>
<b>Point of Delivery ("POD"):</b>	" <b>Point of Delivery</b> " means the high side of the generation step up transformer(s) located at the point of electrical interconnection between the Facility and PGE's distribution or transmission system, as specified in the Interconnection Agreement for Generator Facility between Buyer and Seller.
<b>Firm Energy Price:</b>	Powerdex MIDC Hourly Index, Weighted Average Price for each hour times 1.02 per MWh
<b>Non-Firm Energy Price</b>	Powerdex MIDC Hourly Index, Weighted Average Price for each hour MINUS \$3.00 per MWh
<b>Scheduled Maintenance and Forced Outages:</b>	<p>Seller shall provide PGE with an annual schedule of all planned maintenance for the Marion Facility not later than 3 months prior to the start of the Delivery Period and each calendar year thereafter ("<b>Energy Forecast</b>").</p> <p>If the Marion Facility ceases operation for unscheduled maintenance, Seller shall immediately notify PGE's Preschedule Desk by email of the necessity of such unscheduled maintenance, the time when such maintenance has occurred or will occur, and the anticipated duration of such maintenance. Seller shall take all reasonable measures and exercise its reasonable best efforts to avoid unscheduled maintenance, to limit the duration of such unscheduled maintenance, and to perform unscheduled maintenance during Off-Peak Hours.</p>
<b>Reliability and Operations:</b>	Seller shall maintain and operate the Marion Facility in accordance with Prudent Electrical Practices to support the continuous ability of Seller to meet its obligations to PGE under this Confirmation and the Master Agreement.

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	<p>PGE reserves the right to limit generation to the Scheduled Energy Quantity during periods of over-generation (e.g., high wind events and hydro spring run-off) and reliability events (“<b>Generation Limit</b>”) consistent with Prudent Electrical Practices. In the event that the Marion Facility does not comply with the Generation Limit, the Marion Facility will be obligated to compensate PGE for any and all costs, including assessed penalties, associated with non-compliance of the Generation Limit.</p> <p>“Prudent Electrical Practices” means those practices, methods, standards and acts engaged in or approved by a significant portion of the electric power industry in the Western Electricity Coordinating Council that at the relevant time period, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts reflect due regard for operation and maintenance standards recommended by applicable equipment suppliers and manufacturers, operational limits, and all applicable laws and regulations. Prudent Electrical Practices are not intended to be limited to the optimum practice, method, standard or act to the exclusion of all others, but rather to those practices, methods and acts generally acceptable or approved by a significant portion of the electric power generation industry in the relevant region, during the relevant period.</p>
<p><b>Scheduling Procedure, Pre-Scheduled:</b></p>	<p><u>Monthly Schedule:</u> Seller shall email PGE’s Preschedule Desk communicating the monthly energy quantity to be delivered with hourly granularity for the applicable delivery day(s) no later than 5 business days prior to the month of delivery.</p> <p><u>Pre-Scheduled:</u> During the Delivery Period should the Marion Facility’s expected energy production deviate from the Monthly Schedule, Seller may notify PGE’s Preschedule Desk via email no later than 5:00 a.m. PPT of the customary WECC Pre-Scheduling Day communicating the updated energy quantity (“<b>Pre-Schedule Notification</b>” and such updated energy quantity, the “<b>Scheduled Energy Quantity</b>”). In the absence of the Seller submitting an updated energy quantity Pre-Schedule Notification, the Monthly Schedule will be deemed to be the Scheduled Energy Quantity.</p> <p><i>"WECC Pre-Scheduling Day" shall mean the WECC Pre-Scheduling Day prior to the delivery day or day(s) as defined by the most recent WECC Pre-Schedule calendar. For example, if Seller pre-schedules on a Thursday, the relevant WECC Pre-Scheduling Day for that day will typically be for delivery days of Friday and Saturday.</i></p>
<p><b>Credit:</b></p>	<p>For purposes and duration of this Confirmation, Article 8 of the Master Agreement shall not apply.</p>
<p><b>Representations and Warranties</b></p>	<p>On the Effective Date and continuing through the Delivery Period, Seller represents and warrants that the Facility is and shall continue to be a "Qualifying Facility" ("QF") as that term is defined in the version of 18 C.F.R. Part 292 in effect on the Effective Date, as amended from time to time. Seller has provided the appropriate QF certification, which may include a Federal Energy Regulatory Commission (“FERC”) self-</p>

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	<p>certification to PGE prior to PGE's execution of this Confirmation. PGE may require Seller to provide PGE with evidence satisfactory to PGE in its reasonable discretion that the Facility continues to qualify as a QF at any time until the end of the Delivery Period.</p>
<p><b>Payment:</b></p>	<p>On the 20th day of each month, Buyer will pay Seller the sum of all Product Payments for all days for the prior month. The "Product Payment" for each day in the prior month is equal to the sum of:</p> <ul style="list-style-type: none"> <li>• The product of the Firm Energy Price multiplied by the Firm Quantity delivered by Seller to Buyer for each hour; plus</li> <li>• The product of the Non-Firm Energy Price multiplied by the Non-Firm Quantity delivered by Seller to Buyer for each hour.</li> </ul>

**Portland General Electric Company**

**Covanta Marion, Inc.**

By: 

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

Name: Maria Pope \_\_\_\_\_

Name: \_\_\_\_\_

Title: Senior Vice President of Power Supply and Operations and Resource Strategy

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

Date: 3/24/2014

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

PGE Approved By:	
Business Terms	
Credit	
Legal	
Risk Mgt.	

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<b>Payment:</b>	On the 20th day of each month, Buyer will pay Seller the sum of all Product Payments for all days for the prior month. The "Product Payment" for each day in the prior month is equal to the sum of: <ul style="list-style-type: none"> <li>• The product of the Firm Energy Price multiplied by the Firm Quantity delivered by Seller to Buyer for each hour; plus</li> <li>• The product of the Non-Firm Energy Price multiplied by the Non-Firm Quantity delivered by Seller to Buyer for each hour.</li> </ul>

**Portland General Electric Company**

**Covanta Marion, Inc.**

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

By: Seth Myones KAB

Name: Maria Pope

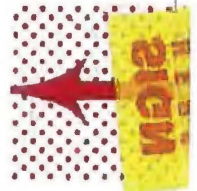
Name: Seth Myones

Title: Senior Vice President of Power Supply and Operations and Resource Strategy

Title: COO

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

Date: 3/31/2014



PGE Approved By:	
Business Terms	<u>[Signature]</u>
Credit	<u>KG</u>
Legal	<u>[Signature]</u>
Risk Mgt.	<u>SB</u>

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# MASTER POWER PURCHASE AND SALE AGREEMENT

## COVER SHEET

This *Master Power Purchase and Sale Agreement* ("Master Agreement") is made as of the following date: 3/31/14 ("Effective Date"). The *Master Agreement*, together with the exhibits, schedules and any written supplements hereto, the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any confirmations accepted in accordance with Section 2.3 hereto) shall be referred to as the "Agreement." The Parties to this *Master Agreement* are the following:

### Article One

#### General Terms and Conditions

#### **Portland General Electric Company ("Party A")**

##### **All Notices:**

Street: 121 SW Salmon Street

City: Portland, Oregon 97204

Attn: General Manager, Risk Management;  
3WTC0306

Phone: (503) 464-8931

Facsimile: (503) 464-2605

Duns: 00-790-9054

Federal Tax ID Number: 93-0256820

##### **Invoices:**

Attn: Risk Management

3WTC0306

Phone: (503) 464-7192

Facsimile: (503) 464-7375

##### **Scheduling:**

Attn: Manager Preschedule Trading

Phone: (503) 464-7067

Facsimile: (503) 464-7608

##### **Wire Transfer:**

BNK: US Bank

ABA: As stated on each invoice

ACCT: As stated on each invoice

NAME: Portland General Electric

##### **Credit and Collections:**

Attn: Credit

3WTC0306

Phone: (503) 464-7816

Facsimile: (503) 464-2605

#### **COVANTA MARION, INC. ("Party B")**

##### **All Notices:**

Street: 5150 Riverbend Drive

City: Burnaby, BC Zip: V3N 4V3

Attn: c/o Covanta Regional Vice President

Phone: 604-549-2870

Facsimile: 604-521-2140

Duns: 151514866

Federal Tax ID Number: 91-1246805

##### **Invoices:**

Attn: Karen Breckenridge, PO Box 9126, Brooks,

OR 97305

Phone: 503-393-0890 x 232

Facsimile: 503-393-9714

##### **Scheduling:**

Attn: Darby Randklev, PO Box 9126, Brooks, OR

97305

Phone: 503-393-0890 x 214

Facsimile: 503-393-9714

##### **Wire Transfer:**

BNK: JP Morgan Chase Bank N.A.

ABA: 021000021

ACCT: 675522973

##### **Credit and Collections:**

Attn: Karen Breckenridge, PO Box 9126, Brooks,

OR 97305

Phone: 503-393-0890 x 232

Facsimile: 503-393-9714

With additional Notices of an Event of Default to:

121 SW Salmon Street, 1WTC1301  
Portland, OR 97204  
Attn: General Counsel  
Phone: (503) 464-7822  
Facsimile: (503) 464-2200

With additional Notices of an Event of Default to:

Attn: Covanta VP & Deputy G.C., 445 South St,  
Morristown, NJ 07960  
Phone: 862-345-5045  
Facsimile: 862-345-5140

The Parties hereby agree that the General Terms and Conditions are incorporated herein, and to the following provisions as provided for in the General Terms and Conditions:

Party A Tariff NA – [Comment: PGE will only purchase]

Party B Tariff QF 83-118-001 Dated March 3, 2004

in each case, as such tariff may be revised from time to time.

**Article Two**

Transaction Terms and Conditions Optional provision in Section 2.4 inapplicable.

**Article Four**

Remedies for Failure to Deliver or Receive ■ Accelerated Payment of Damages. If not checked, inapplicable.

**Article Five**

Cross Default for Party A:

Events of Default; Remedies  Party A: Portland General Electric Company Cross Default Amount \$50,000,000

Other Entity: \_\_\_\_\_ Cross Default Amount: \$ \_\_\_\_\_

Cross Default for Party B:

Party B: \_\_\_\_\_ Cross Default Amount \$ \_\_\_\_\_

Other Entity: \_\_\_\_\_ Cross Default Amount \$ \_\_\_\_\_

5.6 Closeout Setoff

■ Option A (Applicable if no other selection is made.)

Option B – Affiliates shall have the meaning set forth in the Agreement unless otherwise specified as follows: \_\_\_\_\_

Option C (No Setoff)

**Article Eight**

8.1 Party A Credit Protection:

Credit and Collateral Requirements (a) Financial Information:

■ Option A

Option B Specify: \_\_\_\_\_

Option C Specify: \_\_\_\_\_

- (b) Credit Assurances:
- Not Applicable
  - Applicable

- (c) Collateral Threshold:
- Not Applicable
  - Applicable

If applicable, complete the following:

Party B Collateral Threshold: \$ 0 , (or its equivalent in another currency); provided, however, that Party B's Collateral Threshold shall be zero (0) upon the occurrence and during the continuance of an Event of Default, or Downgrade Event with respect to Party B or its Guarantor, if applicable.

Party B Independent Amount: \$-0-

Party B Rounding Amount: \$250,000.00

- (d) Downgrade Event:
- Not Applicable
  - Applicable

If applicable, complete the following:

- It shall be a Downgrade Event for Party B if Party B's or its Guarantor's (if applicable) Credit Rating falls below BBB- by S&P and Baa3 by Moody's or if both Party B's or its Guarantor's ratings are withdrawn or terminated on a voluntary basis by the rating agencies subsequent to the date of this Agreement. If Party B or its Guarantor is not rated by the rating agencies, then a Downgrade Event will be determined by Party A based on the Credit Assurance as defined in this Agreement.

Other:  
Specify: \_\_\_\_\_

- (e) Guarantor for Party B: \_\_\_\_\_  
Guarantee Amount: \_\_\_\_\_

**8.2 Party B Credit Protection:**

- (a) Financial Information:
- Option A
  - Option B Specify: \_\_\_\_\_
  - Option C Specify: \_\_\_\_\_

- (b) Credit Assurances:
- Not Applicable
  - Applicable

- (c) Collateral Threshold:
- Not Applicable
  - Applicable

If applicable, complete the following:

Party A Collateral Threshold: \$ 0 , (or its equivalent in another currency); provided, however, that Party A's Collateral Threshold shall be zero (0) upon the occurrence and during the continuance of an Event of Default, or Downgrade Event with respect to Party A.



Party A Independent Amount: \$-0-

Party A Rounding Amount: \$250,000.00

(d) Downgrade Event:

- Not Applicable
- Applicable

If applicable, complete the following:

- It shall be a Downgrade Event for Party A if Party A's Credit Rating falls below BBB- by S&P and Baa3 by Moody's or if both Party A's ratings are withdrawn or terminated on a voluntary basis by the rating agencies subsequent to the date of this Agreement.

Other: Specify: \_\_\_\_\_

(e) Guarantor for Party A: None.

Guarantee Amount: \_\_\_\_\_

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**Article 10**

Confidentiality  Confidentiality Applicable If not checked, inapplicable.

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**Schedule M**

- Party A is a Governmental Entity or Public Power System
  - Party B is a Governmental Entity or Public Power System
  - Add Section 3.6. If not checked, inapplicable
  - Add Section 8.6. If not checked, inapplicable
- 

The following revisions to the General Terms and Conditions of the Master Agreement shall be applicable:

**GENERAL TERMS AND CONDITIONS.**

- (a) **Article One: General Definitions.** The following definitions are amended as set forth below.
- (1) **Bankrupt:** Section 1.3 is amended by inserting: "and such petition filed or commenced against it is not dismissed within ninety (90) days of such filing or commencement" following the words "commenced against it" in the fourth line.
  - (2) **Costs:** Section 1.11 is amended by deleting the words, "either in terminating any arrangement pursuant to which it has hedged its obligations or" after the word, "Party" in the third line, and inserting the word, "in" prior to the word, "entering" in the fourth line.
  - (3) **Credit Rating:** Section 1.12 is deleted in its entirety and replaced with the following:  
"1.12 "Credit Rating" means with respect to an entity (or its Guarantor, if applicable) (i) the current ratings issued or maintained by Moody's or S&P with respect to such entity's long-term, senior unsecured, unsubordinated debt obligations not supported by third party credit enhancements or, if such debt rating is not available, (ii) the current corporate credit rating by S&P and long term issuer rating by Moody's. If such entity is a Qualified Institution, "Credit Rating" means its long-term, unsecured, unsubordinated deposits."
  - (4) **Letter of Credit:** Section 1.27 is deleted in its entirety and replaced with the following:  
"1.27 "Letter(s) of Credit" means one or more irrevocable, transferable, unconditional, standby Letters of Credit issued by a Qualified Institution, in an amount, form and substance reasonably acceptable to the Party in whose favor the Letter of Credit is issued. Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit."
  - (5) **Potential Event of Default:** Section 1.46 is deleted in its entirety.

- (6) **Recording:** Section 1.50 is amended by deleting the reference to “Section 2.4” and replacing it with “Section 2.5”.
- (7) **Replacement Price:** Section 1.51 is amended by (i) adding the phrase "for delivery" immediately before the phrase "at the Delivery Point" in the second line and (ii) deleting the phrase "at Buyer's option" from the fifth line and replacing it with "absent a purchase".
- (8) **Sales Price:** Section 1.53 is amended by (i) deleting the phrase "at the Delivery Point" from the second line, (ii) deleting the phrase "at Seller’s option" from the fifth line and replacing it with the following: “absent a commercially reasonable attempt to make a sale”, and (iii) inserting after the phrase “commercially reasonable manner” in the sixth line, the following: “; provided, however if the Seller is unable after using commercially reasonable efforts to resell all or a portion of the Product not received by Buyer, the Sales Price with respect to such Product shall be deemed equal to zero (0);”.
- (9) **Qualified Institution:** The following is inserted as a new Section 1.62:  
“1.62 “Qualified Institution” means a major U.S. commercial bank, a trust company, or a U.S. branch office of a major foreign commercial bank (which is not an affiliate of such party) organized under the laws of the United States (or any state or political subdivision thereof) with such bank having shareholders’ equity of at least \$10 billion (U.S. Dollars) and a Credit Rating of at least A+ by S&P or A1 by Moody’s.”
- (10) **Merger Event:** The following is inserted as a new Section 1.63:  
“1.63 “Merger Event” means, with respect to a Party or other entity, that such Party or other entity consolidates or amalgamates with, or merges into or with, or transfers all or substantially all of its assets to another entity, and (i) the resulting, surviving or transferee entity fails, at the time of such consolidation, amalgamation, merger or transfer, to assume each and all of the obligations of such Party or other entity hereunder or under any Guaranty or Letter of Credit or other performance assurance, either by operation of law or pursuant to an agreement reasonably satisfactory to the other Party, or (ii) the benefits of any Guaranty, Letter of Credit, or other performance assurance or credit support provided pursuant to this Agreement fail, at any time following such consolidation, amalgamation, merger or transfer, to extend to the performance by such Party or such resulting, surviving or transferee entity of its obligations hereunder, or (iii) the Credit Rating of the resulting, surviving or transferee entity is not equal to or higher than that of such Party or other entity, or is not at least BBB- by S&P and Baa3 by Moody’s, immediately prior to such consolidation, amalgamation, merger, or transfer.”
- (11) **Tax:** The following is inserted as a new Section 1.64:  
“1.64 “Tax” means any present or future tax, levy, impost, duty, charge, assessment or fee of any nature (including interest, penalties and additions thereto) that is imposed by any government or other taxing authority in respect of any payment under this Agreement other than a stamp, registration, documentation or similar tax.”

(b) **Article Two: Transaction Terms and Conditions.**

- (1) **Governing Terms:** The following shall be inserted after the last sentence of Section 2.2: “In the event any terms of a Party’s Tariff conflict with the terms of this Master Agreement, the terms of this Master Agreement shall govern.”
- (2) The following paragraph is inserted as a second paragraph to Section 2.2:  
“This Master Agreement is effective and relates back in time to govern any and all Transactions between Party A and Party B for the sale or purchase of energy or capacity or related products entered into prior to the Effective Date of this Master Agreement (“Prior Transactions”), to the extent that delivery of energy or capacity or related products occurs on or after the Effective Date of this Master Agreement.”

(c) **Article Five: Events of Default; Remedies.**

- (1) **Events of Default:** Section 5.1(f) is amended by adding the phrase (i) "or its Guarantor" immediately after the word "Party" in the first line, and (ii) "or Guarantor" immediately after the word "Party" in the fifth line.
- (2) Section 5.1(g) is amended by deleting the phrase ", or becoming capable at such time of being declared," in the eighth and ninth lines.

- (3) The following is inserted as a new Section 5.1(i):

"With respect to a Party, when a Letter of Credit is issued on behalf of that Party, a Letter of Credit Default shall have occurred upon the occurrence of any of the following events with respect to the issuer of such Letter of Credit: (i) such issuer shall fail to be a Qualified Institution; (ii) such issuer shall fail to comply with or perform its obligations under such Letter of Credit; (iii) such issuer shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit; (iv) such Letter of Credit shall expire or be within thirty (30) days of its expiration date or it terminates, or shall fail or cease to be in full force and effect at any time during the term, in any such case without replacement; (v) such issuer shall become bankrupt; or (vi) a Merger Event occurs with respect to the issuer of such Letter of Credit; provided, however, that no Letter of Credit Default shall occur or be continuing in any event with respect to a Letter of Credit after the time such Letter of Credit is required to be canceled or returned to a Party in accordance with the terms of this Master Agreement."

- (5) **Declaration of an Early Termination Date and Calculation of Settlement Amounts.** Section 5.2 is amended by deleting the phrase "as soon thereafter as is reasonably practicable" in the last two lines, and adding the following at the end of Section 5.2:

"then each such Transaction (individually, an "Excluded Transaction" and collectively, the "Excluded Transactions") shall be terminated as soon thereafter as reasonably practicable, and upon termination shall be deemed to be a Terminated Transaction and the Termination Payment payable in connection with all such Terminated Transactions shall be calculated in accordance with Section 5.3 below. The Gains and Losses for each Terminated Transaction shall be determined by calculating the amount that would be incurred or realized to replace or to provide the economic equivalent of the remaining payments or deliveries in respect of that Terminated Transaction and shall be calculated for a period equal to the lesser of the remaining contract term or sixty (60) months. The Non-Defaulting Party (or its agent) may determine its Gains and Losses by reference to commercially reasonable information either available to it internally or supplied by one or more third parties including, without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets. Third parties supplying such information may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information."

- (6) **Net Out of Settlement Amounts.** The following shall be inserted at the end of Section 5.3:

"The Non-Defaulting Party will give notice of any setoff effected under this Section as soon as practicable after the setoff is effected, provided that failure to give such notice shall not affect the validity of the setoff. If an obligation is unascertained, the Non-Defaulting Party may, in good faith, estimate that obligation and setoff in respect of the estimate subject to the relevant Party accounting to the other when the obligation is ascertained. Such account is to be provided within 60 days following the Termination Date."

- (7) **Notice of Payment of Termination Payment.** The following shall be inserted at the end of Section 5.4:

Notwithstanding any provision to the contrary contained in this Agreement, the Non-Defaulting Party shall not be required to pay to the Defaulting Party any amount under Article 5 until the

earlier of: (1) such time as the Non-Defaulting Party receives confirmation satisfactory to it in its reasonable discretion (which may include an opinion of its counsel) that all other obligations of any kind whatsoever of the Defaulting Party to make any payments to the Non-Defaulting Party under this Agreement or otherwise which are due and payable as of the Early Termination Date (including for these purposes amounts payable pursuant to Excluded Transactions) have been fully and finally performed; or (2) 60 days after the Early Termination Date.

In the event that Party B is the defaulting party, Party A shall not be required to make any payment to Party B.

- (8) **Suspension of Performance.** Section 5.7 is amended by deleting “or (b) a Potential Event of Default” in the second line. Because that clause is deleted, the caption “(a)” in the second line is also deleted.

**(e) Article Eight: Credit and Collateral Requirements.**

- (1) **Party A Credit Protection:** Section 8.1(a) is amended by inserting “or its Guarantor, if applicable,” after the phrase “Party B’s” in the second line.
- (2) Section 8.1 (c) is amended by deleting the phrase “plus Party B’s Independent Amount, if any, exceeds the Party B Collateral Threshold, then Party A, on any Business Day, may request that Party B provide Performance Assurance in an amount equal to the amount by which the Termination Payment plus Party B’s Independent Amount, if any, exceeds the Party B Collateral Threshold (rounding upwards for any fractional amount to the next Party B Rounding Amount) (“Party B Performance Assurance”), less any Party B Performance Assurance already posted with Party A.” in the third line and replacing it with “shall be a positive amount; then Party B shall deliver Performance Assurance equal to the amount of the Termination Payment in accordance with Article Five.”
- (2) Section 8.1(c) is amended by deleting “three (3) Business Days” and replacing it with “two (2) Business Days” in the ninth, tenth and sixteenth lines.”
- (3) Section 8.1 (c) is amended by inserting “ and for a period equal to the lesser of the remaining contract term or thirty-six (36) months” after the phrase “ Section 5.3” in the second line.
- (3) Section 8.1(d) is amended by deleting “three (3) Business Days” and replacing it with “two (2) Business Days” in the fifth line, and inserting "or fails to maintain such Performance Assurance or guaranty or other credit assurance for so long as the Downgrade Event is continuing," after the phrase “receipt of notice” in the fifth line.
- (4) Section 8.2(a) is amended by inserting “or its Guarantor, if applicable,” after the phrase “Party A’s” in the second line.
- (5) Section 8.2 (c) is amended such that “three (3) Business Days” is replaced by “two (2) Business Days” in the ninth, tenth and sixteenth lines.
- (6) Section 8.2(d) is amended by deleting the words “three (3) Business Days” and replacing them with “two (2) Business Days” in line 5, and adding immediately thereafter, the language "or fails to maintain such Performance Assurance or guaranty or other credit assurance for so long as the Downgrade Event is continuing” after the phrase “receipt of notice” in the fifth line.
- (7) The word “deliver” for purposes of Sections 8.1 (c) and 8.2 (c) with respect to Letter(s) of Credit means:
- (i) the delivery of a Letter of Credit or the delivery of an executed amendment to such Letter of Credit, extending the term or increasing the amount available to the Secured Party thereunder, by the Pledgor or the issuer of the Letter of Credit to the Secured Party at the address specified in the Notices Section of this Master Agreement; and
  - (ii) the return of an outstanding Letter of Credit or the delivery of an executed amendment to the Letter of Credit in form and substance satisfactory to the Secured Party (reducing the amount available to the Secured Party thereunder) by the Pledgor or the issuer of the Letter of Credit to the Secured Party at the address specified in the Notices Section of this master

Agreement. If a transfer is to be effected by a reduction in the amount of an outstanding Letter of Credit previously issued for the benefit of the Secured Party, the Secured Party shall not unreasonably withhold its consent to a commensurate reduction in the amount of such Letter of Credit and shall take such action as is reasonably necessary to effectuate such reduction.

(8) **Grant of Security Interest/Remedies:** Section 8.3 is amended by deleting “or deemed occurrence” from the beginning of the second sentence.

(9) The following is inserted as a new Section 8.4:

**“8.4 Holding Performance Assurance.**

Party A and Party B will be entitled to hold Performance Assurance provided that the following conditions are satisfied:

- (a) The Party holding the Performance Assurance in the form of cash is not a Defaulting Party and a Downgrade Event or a Merger Event with respect to such Party has not occurred and is continuing; and
- (b) Performance Assurance in the form of cash may be held only in a jurisdiction within the United States.”

(10) The following is inserted as a new Section 8.5:

**“8.5 Delivery of Performance Assurance.**

Upon the occurrence and during the continuance of a Downgrade Event, Merger Event or an Event of Default with respect to the Secured Party, the Secured Party shall deliver (or cause to be delivered) not later than two (2) Business Days after request by the Pledgor, all Performance Assurance in its possession or held on its behalf by a financial institution, to a segregated, safekeeping or custody account (“Collateral Account”) within a Qualified Institution approved by the Pledgor (which approval shall not be unreasonably withheld). The title of the Collateral Account shall indicate that the property contained therein is being held as Performance Assurance for the Secured Party. The Qualified Institution shall serve as custodian with respect to the Performance Assurance in the Collateral Account and shall hold such Performance Assurance for the security interest of the Secured Party and, subject to the security interest, for the ownership of the posting party.”

(11) The following is inserted as a new Section 8.6:

**“8.6 Performance Assurance Event of Default.**

Failure by a Party to comply with any of the obligations under Section 8.5 will constitute an Event of Default with respect to such Party if the failure continues for two (2) Business Days after notice of the failure is given to that Party.”

(12) The following is inserted as a new Section 8.7:

**“8.7 Interest Rate on Cash Collateral.**

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

**(f) Article Ten: Miscellaneous.**

(1) **Representations and Warranties:**

- (a) Section 10.2(vii) is amended by deleting “or Potential Event of Default” in the first line.

- (b) Section 10.2(viii) is amended by inserting the following at the end of the subsection:  
“The creditworthiness of the other Party was a material consideration in its entering into or determining the terms of the Master Agreement and credit support, and such Transaction.”
- (c) Section 10.2 is further amended by inserting the following as new subsections (xiii) and (xiv):
- “(xiii) all annual and quarterly reports filed by either Party with the Securities Exchange Commission pursuant to the Securities Exchange Act of 1934 comply with the requirements of Sections 302 and 906 of the Sarbanes-Oxley Act of 2002 as evidenced by certifications by the Chief Executive Officer and Chief Financial Officer of such Party accompanying such filings;
- (xiv) it is not required by any applicable law, as modified by the practice of any relevant governmental revenue authority, of any relevant jurisdiction to make any deduction or withholding for or on account of any Tax.”
- (2) **Assignment:** Section 10.5 is deleted in its entirety and replaced with the following:
- “Neither Party shall assign this Agreement or its rights hereunder to any entity whose Credit Rating is not equal to or higher than that of such Party. No assignment may be made of this Master Agreement or any of its rights or obligations under this Master Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Despite the immediately preceding sentence, either Party may, without the need for consent from the other Party (and without relieving itself from liability hereunder), (1) transfer, sell, pledge, encumber or assign this Master Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements, (2) transfer or assign this Master Agreement to an Affiliate of such Party, or (3) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets of such Party; provided, however, that in the case of (2) and (3) any such assignee shall agree in writing to be bound by the terms and conditions of this Master Agreement hereof and so long as the transferring Party delivers such tax and enforceability assurance as the non-transferring Party may reasonably request. Transfers or assignments not in compliance with the requirements of this Section 10.5 shall be void.
- (3) **Forward Contract:** Section 10.10 is deleted in its entirety and replaced with the following:
- “The Parties intend that (i) all Transactions constitute a "forward contract" within the meaning of the United States Bankruptcy Code (the "Bankruptcy Code") or a "swap agreement" within the meaning of the Bankruptcy Code; (ii) all payments made or to be made by one Party to the other Party pursuant to this Agreement constitute "settlement payments" within the meaning of the Bankruptcy Code; (iii) all transfers of Performance Assurance by one Party to the other Party under this Agreement constitute "margin payments" within the meaning of the Bankruptcy Code; and (iv) this Agreement constitutes a "master netting agreement" within the meaning of the Bankruptcy Code.”
- (4) **Confidentiality:** Section 10.11 is amended by inserting “or the completed Cover Sheet to this Master Agreement” immediately before the phrase “to a third party” in the third line, and insert “to an index publisher or rating agency who has executed a confidentiality agreement with such Party or,” after the word “except” in the fifth line.
- (5) The following is inserted as a new Section 10.12:
- “10.12 Arbitration. Any claim, counterclaim, demand, cause of action, dispute, and controversy arising out of or relating to this Agreement or the relationship established by this Agreement, any provision hereof, the alleged breach thereof, or in any way relating to the subject matter of this Agreement, involving the Parties and/or their respective representatives (for purposes of this Section 10.12 only, collectively the "Claims"), even though some or all of such Claims allegedly are extra-contractual in nature, whether such Claims sound in contract, tort, or otherwise, at law or in equity, under state or federal law, whether provided by statute or the common law, for damages

or any other relief, shall be resolved by binding arbitration. Arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association (“AAA”). The validity, construction, and interpretation of this agreement to arbitrate, and all procedural aspects of the arbitration conducted pursuant hereto shall be decided by the arbitrator. In deciding the substance of the Parties' Claims, the arbitrator shall refer to the governing law. It is agreed that the arbitrator shall have no authority to award treble, exemplary or punitive damages of any type under any circumstances whether or not such damages may be available under state or federal law, or under the Federal Arbitration Act, or under the Commercial Arbitration Rules of the American Arbitration Association, the Parties hereby waiving their right, if any, to recover any such damages. The arbitration proceeding shall be conducted in Portland, Oregon. Within thirty (30) days of the notice of initiation of the arbitration procedure, the Parties shall agree to the appointment of one arbitrator, or failing such agreement, jointly request AAA to make such appointment within an additional five days. The arbitrator shall be a person who has over eight years professional experience in electrical energy-related transactions and who has not previously been employed by either Party and does not have a direct or indirect interest in either Party or the subject matter of the arbitration. To the fullest extent permitted by law, any arbitration proceeding and the arbitrator's award shall be maintained in confidence by the Parties. The Award shall be in writing and shall be final and binding on the Parties and may be entered in any court having Jurisdiction over a Party or any of its assets. The arbitrator shall determine the prevailing Party and award a recovery of costs, including reasonable attorneys' fees and the fees of the arbitrator and AAA to the prevailing party so determined.”

- (6) The following provision is inserted as a new Section 10.13:

“10.13 Index Transactions.

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

“Determination Period” means each calendar month during the term of the relevant Transaction; provided that if the term of the Transaction is less than one calendar month, the Determination Period shall be the term of the Transaction.

“Floating Price” means the price specified in the Transaction as being based upon a specified index.

“Market Disruption Event” means, with respect to an index, any of the following events : (a) the failure of the index to announce or publish information necessary for determining the Floating Price; (b) the failure of trading to commence or the permanent discontinuation or material suspension of trading in the relevant options contract or commodity on the exchange or market acting as the index; (c) the temporary or permanent discontinuance or unavailability of the index; (d) the temporary or permanent closing of any exchange acting as the index; or (e) a material change in the formula for or the method of determining the Floating Price.

“Trading Day” means a day in respect of which the relevant price source published the relevant price.

- (b) **Corrections to Published Prices.** For purposes of determining the relevant prices for any Trading Day, if the price published or announced on a given Trading Day and used or to be used to determine a relevant price is subsequently corrected and the correction is

published or announced by the person responsible for that publication or announcement within sixty (60) days of the date of delivery, either Party may notify the other Party of (i) that correction and (ii) the amount (if any) that is payable as a result of that correction. If a Party gives notice that an amount is so payable, the Party that originally either received or retained such amount will, not later than three (3) Business Days after the effectiveness of that notice, pay, subject to any applicable conditions precedent, to the other Party that amount, together with interest at the Interest Rate for the period from and including the day on which payment originally was (or was not) made to but excluding the day of payment of the refund or payment resulting from that correction.

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

- (7) The following is inserted as a new Section 10.14:

“10.14 Binding Rates and Terms.

- (a) Absent the agreement of all Parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Agreement, whether proposed by a Party (to the extent that any waiver in subsection (b) below is unenforceable or ineffective as to such Party), a non-party or FERC acting *sua sponte*, shall solely be the “public interest” application of the “just and reasonable” standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) and clarified by Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish 554 U.S. \_\_\_ (2008) (the “Mobile-Sierra” doctrine).
- (b) In addition, and notwithstanding the foregoing subsection (a), to the fullest extent permitted by applicable law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, whether under §§ 205 and/or 206 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any section of this Agreement specifying the rate, charge, classification, or other term or condition agreed to by the Parties, it being the express intent of the Parties that, to the fullest extent permitted by applicable law, neither Party shall unilaterally seek to obtain from FERC any relief changing the rate, charge, classification, or other term or condition of this Agreement, notwithstanding any subsequent changes in applicable law or market conditions that may occur. In the event it were to be determined that applicable law precludes the Parties from waiving their rights to seek changes from FERC to their market-based power sales contracts (including entering into covenants not to do so) then this subsection (b) shall not apply, provided that, consistent with the foregoing subsection (a), neither Party shall seek any such changes except solely under the “public interest” application of the “just and reasonable” standard of review and otherwise as set forth in the foregoing section (a).

- (8) The following is inserted as a new Section 10.15:

“10.15 Agreement to Deliver Documents. Party A and Party B shall deliver the following documents upon execution:

A certified copy of the resolution of the Board of Directors of Party A or Party B, as the case may be, or of its relevant committee, authorizing such Party to enter into this Master Agreement and each Transaction contemplated thereby, and an incumbency certificate or other evidence of authority and specimen signatures with respect to each party, its Guarantor (if any), and their respective signatories.”



(9) The following provision is inserted as a new Section 10.16:

“10.16 Reserves. For the avoidance of doubt, the Parties hereby clarify, and/or agree that under the Agreement the Seller is responsible for all reserve obligations for all Transactions unless specified otherwise in the Transaction Confirmation. Seller’s failure to provide reserves, in accordance with regulations in place that govern electronic tagging of energy schedules, shall be an event of default, and Buyer may exercise any rights available to it under the Agreement or at law.”

IN WITNESS WHEREOF, the Parties have caused this Master Agreement to be duly executed as of the Effective Date.

**PORTLAND GENERAL ELECTRIC  
COMPANY**

**Covanta Marion, Inc.**

By: 

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

Name: Maria Pope

Name: \_\_\_\_\_

Title: Senior Vice President of Power Supply and  
Operations and Resource Strategy

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

Date: 3/24/2014

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

**DISCLAIMER: This Master Power Purchase and Sale Agreement was prepared by a committee of representatives of Edison Electric Institute (“EEI”) and National Energy Marketers Association (“NEM”) member companies to facilitate orderly trading in and development of wholesale power markets. Neither EEI nor NEM nor any member company nor any of their agents, representatives or attorneys shall be responsible for its use, or any damages resulting therefrom. By providing this Agreement EEI and NEM do not offer legal advice and all users are urged to consult their own legal counsel to ensure that their commercial objectives will be achieved and their legal interests are adequately protected.**

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Risk Mgt.	JB

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**PORTLAND GENERAL ELECTRIC  
COMPANY**

**Covanta Marion, Inc.**

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

By: Seth Myones *KAB*

Name: Maria Pope

Name: Seth Myones

Title: Senior Vice President of Power Supply and  
Operations and Resource Strategy

Title: COO

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

Date: 3/31/2014

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Business Terms	BT
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