

OREGON STANDARD
ENERGY SALES AGREEMENT
(Intermittent Resource)
BETWEEN
IDAHO POWER COMPANY
AND

(Includes Transmission Provisions)

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ENERGY SALES AGREEMENT

INTERMITTENT RESOURCE

(10 MW or Less)

Project Number: _____

THIS AGREEMENT, entered into on this _____ day of _____ 20__ between _____, a _____ company (Seller), and IDAHO POWER COMPANY, an Idaho corporation (Idaho Power), hereinafter sometimes referred to collectively as “Parties” or individually as “Party.”

WITNESSETH:

WHEREAS, Seller will design, construct, own, maintain and operate an electric generation facility; and

WHEREAS, Seller wishes to sell, and Idaho Power is willing to purchase, electric energy produced by the Seller’s Facility.

THEREFORE, In consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

ARTICLE I: DEFINITIONS

As used in this Agreement and the appendices attached hereto, the following terms shall have the following meanings:

- 1.1 “Annual Net Energy Amount” – Net Energy that the Seller estimates the Facility will produce and the Transmitting Entity will deliver to Idaho Power at the Point of Delivery for one Contract Year. The Seller shall use all available information (equipment characteristics, resource characteristics and data, Facility design, etc) to accurately estimate the Annual Net Energy Amounts.
- 1.2 “Cash Escrow Security” – Has the meaning set out in paragraph 4.1.6.1.
- 1.3 “Commission” - The Oregon Public Utility Commission.

- 1.4 “Contract Year” - The period commencing each calendar year on the same calendar date as the Operation Date and ending 364 days thereafter.
- 1.5 “Default Security” - A dollar amount computed by the annual On-Peak Hours multiplied by the (On-Peak price less Off-Peak price) multiplied by Annual Net Energy Amount divided by 8,760 where the On-Peak price and Off-Peak price are the applicable prices specified in Appendix E.
- 1.6 “Delay Cure Period” – twelve (12) months past the date which the non-defaulting Party has provided notice of Default as specified in paragraph 19.2.1 of this Agreement.
- 1.7 “Delay Damages” – Replacement Energy (kWh) multiplied by (Replacement Energy Cost plus Replacement Energy Transaction Costs). These damages will be calculated and billed monthly for all months after the Scheduled Operation and until such time as the Operation Date is achieved or this Agreement is terminated.
- 1.8 “Designated Dispatch Facility” - Idaho Power’s Systems Operations Group, or any subsequent group designated by Idaho Power
- 1.9 “Downtime Hours” – the number of hours in a single Contract Year for each generation unit within the Facility, measured in 10 minute increments, in which the generation unit is not in the “run” status or is in “run” status but faulted (including any reasonable delay in resetting a fault). Notwithstanding the previous sentence, Downtime Hours does not include minutes that the unit is unavailable due to (i) an event of Force Majeure; (ii) a default by Idaho Power under this Agreement; (iii) Lack of Prime Mover at times when the generation unit would otherwise be available (including the normal amount of time required by the generation unit to resume operations following a Lack of Prime Mover); or (iv) hours of planned maintenance per generation unit not to exceed 200 hours per generation unit per Contract Year.
- 1.10 “Facility” - That electric generation facility described in Appendix B of this Agreement.
- 1.11 “First Energy Date” - The day commencing at 0001 hours, Mountain Time, following the day that Seller has satisfied the requirements of Article IV and the Seller begins delivering energy to Idaho Power’s system at the Point of Delivery.

- 1.12 “Idaho Power Electrical System Control Area” or “Control Area” – The geographical area of integrated transmission and generation controlled by Idaho Power for which Idaho Power is responsible for scheduling interchanges with other control areas and balancing supply and demand within the area. The Control Area may include physical locations and/or electrical systems not served or owned by Idaho Power, but which are dependent upon Idaho Power’s operation of its generation and transmission to balance supply and demand.
- 1.13 “Integration Charge” – if this Facility is located within the Idaho Power Electrical System Control Area, the integration charge for this Agreement shall be as defined in the most recent Idaho Power acknowledged Integrated Resource Plan for each specific resource type, specified in Schedule 85 and included as Appendix E to this Agreement.
- 1.14 “Intermittent Resource” – a Facility that produces electrical energy from the use of wind, solar or run of river hydro as the prime mover.
- 1.15 “Lack of Prime Mover” – temporary lack, due to natural causes of Sufficient Prime Mover. Lack of Prime Mover does not include Lack of Prime Mover due to voluntary actions taken by the Seller or by human caused events.
- 1.16 “Letter of Credit Security” – Has the meaning set out in paragraph 4.1.6.2.
- 1.17 “Losses” – The loss of electrical energy expressed in kilowatt hours (kWh) occurring as a result of the transformation and transmission of energy between the point where the Facility’s energy is metered and the point the Facility’s energy is delivered to the Idaho Power electrical system by the Transmitting Entity. The loss calculation formula will be as specified in Appendix B of this Agreement.
- 1.18 “Material Breach” – A Default (paragraph 19.2.1) subject to paragraph 19.2.2.
- 1.19 “Mechanical Availability” – measured for each Contract Year, the percentage of time that the Facility is capable of producing Net Energy during a Contract Year. The actual calculation being:

$$\text{Mechanical Availability (\%)} = (((H * N) - (DH * N)) / (H * N)) * 100$$

Where:

- H = number of hours in the Contract Year
- N = number of generation units comprising the Facility
- DH = Downtime Hours

- 1.20 “Mechanical Availability Guarantee” - shall be as defined in paragraph 6.4.
- 1.21 “Mechanical Availability Damages” – (Replacement Energy (kWh) multiplied by Replacement Energy Cost) plus Replacement Energy Transaction Costs. These damages will be calculated and billed annually for all Contract Years in which the Facility fails to achieve the Mechanical Availability Guarantee.
- 1.22 “Mid-Columbia Market Energy Cost” – 82.4% of the monthly arithmetic average of the Intercontinental Exchange (“ICE”) daily firm Mid-C Peak Avg and Mid-C Off-Peak Avg reported prices.

The actual calculation being:

$$.824 * \left(\sum_{X=1}^n \{(\text{ICE Mid-C Peak Avg}_x * \text{On-Peak hours for day}) + (\text{ICE Mid-C Off-Peak Avg}_x * \text{Off-Peak hours for day})\} / (n*24) \right)$$

where n = number of days in the month

If the ICE Mid-Columbia Index reporting is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the ICE Mid-Columbia Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electrical industry.

- 1.23 “Maximum Capacity” - The maximum capacity (MW) of the Facility will be as specified in Appendix B of this Agreement.
- 1.24 “Monthly Energy Price” – A per kWh energy price calculated for each month of the Agreement equal to the ((applicable month’s On-Peak price as specified in Appendix E multiplied by the On-Peak hours for the same month) plus (the Off-Peak price as specified in Appendix E multiplied by the Off-Peak hours in the same month)) divided by the total hours in the same month.

- 1.25 “Nameplate Capacity” –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, kilovoltamperers, kilowatts, volts or other appropriate units. Usually indicated on a nameplate attached to the individual machine or device.
- 1.26 “Net Energy” – Electric energy produced by the Facility, less Station Use and Losses, expressed in kilowatt hours (kWh), which the Transmitting Entity delivers to Idaho Power, that is less than or equal to the Nameplate Capacity. Seller commits to deliver all Net Energy produced by the Facility to Idaho Power at the Point of Delivery for the full term of the Agreement.
- 1.27 “Off-Peak Hours” – The daily hours from hour ending 2300 - 0600 Mountain Time (8 hours), plus all other hours on all Sundays, New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas.
- 1.28 “On-Peak Hours” – The daily hours from hour ending 0700 – 2200 Mountain Time, (16 hours) excluding all hours on all Sundays, New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas.
- 1.29 “Operation Date” – The day commencing at 0001 hours, Mountain Time, following the day that all requirements of paragraph 5.2 have been completed.
- 1.30 “Point of Delivery” – The location specified in Appendix B, where the Transmitting Entity delivers the Facility’s Net Energy to the Idaho Power electrical system.
- 1.31 “Prudent Electrical Practices” – Those practices, methods and equipment that are commonly and ordinarily used in electrical engineering and operations to operate electric equipment lawfully, safely, dependably, efficiently and economically.
- 1.32 “Replacement Energy” – 1) For each day after the Scheduled Operation Date and prior to the Operation Date, Replacement Energy shall be equal to the Annual Net Energy Amount specified in paragraph 6.2 divided by 365, less Surplus Energy delivered to Idaho Power the same day.. If this calculation results in a value less than 0 then the result shall be 0. 2) After the Operation

Date and if the Facility's annually calculated Mechanical Availability is less than the Mechanical Availability Guarantee, Replacement Energy shall be expressed in kWh and calculated as follows: (MAG – Mechanical Availability) * Annual Net Energy Amount..

- 1.33 “Replacement Energy Cost” - Shall be Mid-Columbia Market Energy Cost minus the Monthly Energy Price. If the result of this calculation is less than \$0, then the result will be \$0,
- 1.34 “Replacement Energy Transaction Costs” – costs Idaho Power could incur to purchase and receive Replacement Energy at the Replacement Energy Point of Delivery. These costs shall include but not be limited to reasonable administrative costs and transmission costs to deliver the Replacement Energy to Idaho Power at the Replacement Energy Point of Delivery.
- 1.35 “Replacement Energy Point of Delivery” – shall be the Point of Delivery as specified in this Agreement unless Idaho Power is unable to accept market purchased energy equal to the quantity of Replacement Energy at this Point of Delivery. If Idaho Power is unable to accept market purchased energy in this amount at this Point of Delivery, Idaho Power shall select another commonly used point of delivery for market energy purchases on Idaho Power's electrical system.
- 1.36 “Schedule 85” – Idaho Power's Oregon Tariff No E-27, Schedule 85 in effect as of the effective date of this Agreement.
- 1.37 “Scheduled Operation Date” – The date specified in Appendix B when Seller anticipates achieving the Operation Date. This date shall not be more than three (3) years after the date in which the Seller executes this Agreement or a later date only if both parties mutual consent to the later date.
- 1.38 “Season” – The three periods identified in Schedule 85.
- 1.39 “Senior Lien” – Has the meaning set out in paragraph 4.1.6.3.
- 1.40 “Station Use” – Electric energy that is used to operate equipment that is auxiliary or otherwise related to the production of electricity by the Facility. To calculate the Station Use value for use

in the Mechanical Availability calculation, the previous period's actual Station Use will be used as a basis.

- 1.41 “Step-In Rights” – Has the meaning set out in paragraph 4.1.6.4.
- 1.42 “Sufficient Prime Mover” means prime mover (i.e. wind speed, water quantity or solar insolation) that is equal to or greater than the generation unit's manufacturer-specified minimum levels required for the generation unit to produce energy.
- 1.43 “Surplus Energy” – (1) All Net Energy produced by the Seller's Facility and delivered by the Transmitting Entity to the Idaho Power electrical system that exceeds the Nameplate Capacity of the Facility but is less than the Maximum Capacity of the Facility. Deliveries above the Facility's Nameplate Capacity solely for the purpose of accommodating hourly scheduling in whole MWs by a third party transmission provider shall not be considered to be Surplus Energy as described within this paragraph 1.43 item 1 or (2) All Net Energy produced by the Seller's Facility and delivered by the Transmitting Entity to the Idaho Power electrical system prior to the Operation Date and is less than the Maximum Capacity of the Facility.
- 1.44 “Total Cost of the Facility” - The total cost of structures, equipment and appurtenances.
- 1.45 “Transmitting Entity” - The signatory(s) (other than the Seller) to the Transmission Agreement referred to in paragraph 9.1 and its successors and assigns.

ARTICLE II: NO RELIANCE ON IDAHO POWER

- 2.1 Seller Independent Investigation - Seller warrants and represents to Idaho Power that in entering into this Agreement and the undertaking by Seller of the obligations set forth herein, Seller has investigated and determined that it is capable of performing hereunder and has not relied upon the advice, experience or expertise of Idaho Power in connection with the transactions contemplated by this Agreement.
- 2.2 Seller Independent Experts - All professionals or experts including, but not limited to, engineers, attorneys or accountants, that Seller may have consulted or relied on in undertaking the

transactions contemplated by this Agreement have been solely those of Seller.

ARTICLE III: WARRANTIES

3.1 No Warranty by Idaho Power - Any review, acceptance or failure to review Seller's design, specifications, equipment or facilities shall not be an endorsement or a confirmation by Idaho Power and Idaho Power makes no warranties, expressed or implied, regarding any aspect of Seller's design, specifications, equipment or facilities, including, but not limited to, safety, durability, reliability, strength, capacity, adequacy or economic feasibility.

3.2 Qualifying Facility Status - Seller warrants that the Facility is a "Qualifying Facility," as that term is used and defined in 18 CFR 292.201 et seq. Seller's failure to maintain the Facility and operations of the Facility in a manner consistent with the initial Qualifying Facility certificate will be a Material Breach of this Agreement. Idaho Power reserves the right to review the Seller's Qualifying Facility status and associated support and compliance documents at anytime during the term of this Agreement.

3.2.1 If Idaho Power's obligation to purchase energy from a "Qualifying Facility," as that term is defined in 18 CFR 292.201 et seq. or ORS 758.505(8), is repealed or otherwise terminated, this Agreement will remain in full force and effect unless state or federal law mandates termination of this Agreement.

3.3 FERC License (*only applies to hydro projects*) - Seller warrants that Seller possesses a valid license or exemption from licensing from the Federal Energy Regulatory Commission ("FERC") for the Facility. Seller recognizes that Seller's possession and retention of a valid FERC license or exemption is a material part of the consideration for Idaho Power's execution of this Agreement. Seller will take such steps as may be required to maintain a valid FERC license or exemption for the Facility during the term of this Agreement, and Seller's failure to maintain a valid FERC license or exemption will be a material breach of this Agreement.

3.4 Eligibility for Standard Rates and Contract

- 3.4.1 Initial Qualification - Seller warrants that the Seller's Facility meets the definitions contained in Appendix D, "Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Rates and Standard Contract" of this Agreement approved by the Commission at the time this Agreement is executed and is therefore eligible for standard rates and the standard contract. Upon request from Idaho Power, the Seller will provide Idaho Power with documentation verifying the ownership, management and financial structure of the Facility in reasonably sufficient detail to allow Idaho Power to make an initial determination of whether or not the Facility meets the described criteria for entitlement to the standard rates and standard contract as defined in Appendix D.
- 3.4.2 Ongoing Qualification - Seller warrants that the Seller will not make any changes in its ownership, control or management during the term of this Agreement that would cause it to be ineligible for standard rates and a standard contract in compliance with the Appendix D approved by the Commission at the time this Agreement is executed. Seller will provide, upon request by Idaho Power not more frequently than every 36 months, such documentation and information as may be reasonably required to establish Seller's continued compliance with the Definition in Appendix D. Idaho Power 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 Idaho Power will provide all such confidential information to the Public Utility Commission of Oregon upon the Commission's request.
- 3.4.3 Qualification Dispute - Any dispute concerning the Seller's entitlement to the standard rates and standard contract shall be presented to the Commission for resolution.

3.4.4 Seller warrants that the Facility is an Intermittent Resource.

ARTICLE IV: CONDITIONS TO ACCEPTANCE OF ENERGY

4.1 Prior to the First Energy Date and as a condition of Idaho Power's acceptance of deliveries of energy from the Seller, Seller shall:

4.1.1 Submit proof to Idaho Power that all licenses, permits or approvals necessary for Seller's operations have been obtained from applicable federal, state or local authorities, including, but not limited to, evidence of compliance with Subpart B, 18 CFR 292.201 et seq.

4.1.2 Nameplate Capacity Determination - Submit to Idaho Power such data as Idaho Power may reasonably require to confirm the manufacturer's Nameplate Capacity rating and the Maximum Capacity rating of the Facility. Such data will include but not be limited to, equipment specifications, power factor assumptions, and any other data that would allow Idaho Power to verify the generating capacity and the manufacturer's nameplate rating of this Facility. Upon receipt of this information, Idaho Power will review the provided data and if necessary, request additional data to complete the verification process within a reasonable time.

4.1.3 Engineer's Certifications - Submit an executed Engineer's Certification of Design & Construction Adequacy and an Engineer's Certification of Operations and Maintenance (O&M) Policy. These certificates will be in the form specified in Appendix C but may be modified to the extent necessary to recognize the different engineering disciplines providing the certificates.

4.1.4 Insurance - Submit written proof to Idaho Power of all insurance required in Article XIII.

4.1.5 Transmission Agreement - Provide Idaho Power with a copy of (1) the Transmission Agreement executed by the Seller and the Transmitting Entity in a form acceptable to Idaho Power and (2) confirmation that the Idaho Power delivery business unit has agreed

to accept the Net Energy deliveries at the Point of Delivery in an amount up to the Maximum Capacity Amount. Idaho Power's acceptance will not be unreasonably withheld.

4.1.6 Security Requirements – Provide Idaho Power with commercially reasonable representations and warranties and other documentation to determine the Seller's creditworthiness. Such documentation would include, at a minimum, that the Seller is current on existing debt obligations and has not been a debtor in a bankruptcy proceeding within the preceding two years. Upon receipt of this information, Idaho Power will review the provided data and, if necessary, request additional data and/or will provide written confirmation or rejection of the provided data within a reasonable time. In lieu of providing evidence of acceptable creditworthiness, the Seller may provide Idaho Power with commercially reasonable security instruments such as Letter of Credit, Senior Lien Rights, Step-In-Rights, Cash Escrow Security as those terms are defined in this Agreement or other forms of liquid financial security that would provide readily available cash to Idaho Power in the Event of a Default under this Agreement. The value of these security instruments shall at the minimum be equal to the Default Security as defined in paragraph 1.5 of this Agreement.

4.1.6.1 Cash Escrow Security - Seller shall deposit funds in an escrow account established by Idaho Power in a banking institution acceptable to both Parties equal to, 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 Idaho Power receives payment from the Default Security, Seller shall, within fifteen (15) days, restore the Default Security as if no such deduction had occurred.

4.1.6.2 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 Idaho Power in its discretion, or (b) a Letter of Credit in favor of Idaho Power. To the extent Idaho Power receives payment from the Default Security, Seller shall, within fifteen (15) days, restore the Default Security as if no such deduction had occurred.

4.1.6.3 Senior Lien - Before the Scheduled Operation Date, Seller shall grant Idaho Power 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 Idaho Power in the reasonable exercise of its discretion). Pending delivery of the senior lien to Idaho Power, Seller shall not cause or permit the Facility or its assets to be burdened by liens or other encumbrances that would be superior to Idaho Power'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.

4.1.6.4 Step-in Rights (Operation by Idaho Power Following Event of Default of Seller).

4.1.6.4.1 Prior to any termination of this Agreement due to an Event of Default of Seller, as identified in paragraph 19.2, Idaho Power 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 Idaho Power’s right under this paragraph 4.1.6.4.

4.1.6.4.2 Idaho Power shall give Seller ten (10) calendar days notice in advance of the contemplated exercise of Idaho Power’s rights under this paragraph 4.1.6.4. 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, Idaho Power, 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 Idaho Power as Seller’s attorney-in-fact for the exclusive purpose of executing such documents and taking such other actions as Idaho Power may reasonably deem necessary or appropriate to exercise Idaho Power’s step-in rights under this paragraph 4.1.6.4.

4.1.6.4.3 During any period that Idaho Power 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.

4.1.6.4.4 During any period that Idaho Power is in possession of and operating the Facility, Seller shall retain legal title to and

ownership of the Facility and Idaho Power shall assume possession, operation, and control solely as agent for Seller.

a) In the event Idaho Power is in possession and control of the Facility for an interim period, Seller shall resume operation and Idaho Power shall relinquish its right to operate when Seller demonstrates to Idaho Power's reasonable satisfaction that it will remove those grounds that originally gave rise to Idaho Power'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 Idaho Power to exercise its rights under this paragraph 4.1.6.4.

b) In the event that Idaho Power 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 Idaho Power shall relinquish its right to operate when the Facility Lender or any nominee or transferee thereof, requests such relinquishment.

4.1.6.4.5 Idaho Power's exercise of its rights hereunder to possess and operate the Facility shall not be deemed an assumption by Idaho Power of any liability attributable to Seller. If at any time after exercising its rights to take possession of and operate the Facility Idaho Power elects to return such possession and operation to Seller, Idaho Power shall provide Seller with at

least fifteen (15) calendar days advance notice of the date Idaho Power 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.

- 4.1.7 Written Acceptance – Request and obtain written confirmation from Idaho Power that all conditions to acceptance of energy have been fulfilled. Such written confirmation shall be provided within a commercially reasonable time following the Seller’s request and will not be unreasonably withheld by Idaho Power.

ARTICLE V: TERM AND OPERATION DATE

- 5.1 Term - Subject to the provisions of paragraph 5.2 below, this Agreement shall become effective on the date first written and shall continue in full force and effect for a period of _____ (*not to exceed 20 years*) Contract Years from the Operation Date.
- 5.2 Operation Date -- The Operation Date may occur only after the Facility has achieved all of the following:
- a) Achieved the First Energy Date.
 - b) Seller has demonstrated to Idaho Power's satisfaction that the Facility is complete and able to provide energy in a consistent, reliable and safe manner.
 - c) Seller has requested an Operation Date from Idaho Power in a written format.
 - d) Seller has received written confirmation from Idaho Power of the Operation Date.
- This confirmation will not be unreasonably withheld by Idaho Power.
- 5.3 If the Seller fails to achieve the Operation Date by the Scheduled Operation Date, Seller will pay Idaho Power Delay Damages until the Seller achieves the Operation Date or until the date this Agreement is terminated.

5.4 Seller's failure to achieve the Operation Date by the Scheduled Operation Date will be an Event of Default.

ARTICLE VI: PURCHASE AND SALE OF NET ENERGY

6.1 Delivery and Acceptance of Net Energy - Except when either Party's performance is excused as provided herein, Idaho Power will purchase and Seller will sell all of the Net Energy produced by the Facility and delivered by the Transmitting Entity to Idaho Power at the Point of Delivery.

6.2 Annual Net Energy Amount - Seller intends to produce and Transmitting Entity shall deliver Net Energy in the following annual amount:

6.2.1 Annual Net Energy Amount: _____ kWh

6.2.2 Seller's Adjustment of Annual Net Energy Amounts

6.2.2.1 No later than the Scheduled Operation Date, by written notice given to Idaho Power in accordance with paragraph 24.1, the Seller may revise the previously provided Annual Net Energy Amount.

6.3 Unless excused by an event of Force Majeure, Seller's failure to deliver Net Energy in any two consecutive Contract Years in an amount equal to at least ten percent (10%) of the Annual Net Energy Amount specified in paragraph 6.2 shall constitute an Event of Default.

6.4 Mechanical Availability Guarantee (MAG) – Seller guarantees that beginning with the third Contract Year the annual Mechanical Availability of the Facility shall be no less than 90 percent.

6.4.1 MAG notification – within ten (10) days after the end of a Contract Year, the Seller shall provide Idaho Power with the Seller certified accurate Mechanical Availability calculations for the recently passed Contract Year. At the minimum the information provided to Idaho Power will include a summary record of the Contract Year's Generation Unit Downtime Hours, Lack of Prime Mover, Force Majeure events and any other information required to confirm the Seller's Mechanical Availability calculation.

- 6.4.2 The Seller shall maintain detailed documentation of the Seller's Mechanical Availability calculation for a minimum of three (3) Contract Years.
- 6.4.3 Idaho Power shall have the right to review and audit the documentation supporting the calculation of the Mechanical Availability at reasonable times at the Seller's Facility or other mutually agreed to location.
- 6.4.4 Failure of the Facility's Mechanical Availability to meet or exceed the Mechanical Availability Guarantee for two consecutive Contract Years shall be an Event of Default under this Agreement.

ARTICLE VII: PURCHASE PRICE AND METHOD OF PAYMENT

- 7.1 Net Energy Purchase Price – For the first fifteen (15) Contract Years the Seller shall be paid the On-Peak and Off-Peak prices, less any identified Integration Charge applicable to the Facility resource type as specified in Schedule 85 and included as Appendix E of this Agreement for Net Energy deliveries during On-Peak or Off-Peak hours. For all Net Energy delivered to Idaho Power after the first fifteen (15) Contract Years and for the remaining term of this Agreement, the Seller has selected Option _____ from Schedule 85 as the basis for determining the purchase price. The Net Energy Purchase Price shall be calculated as specified in Schedule 85 resulting in an On-Peak and Off-Peak Net Energy Purchase Price which will be applied to the applicable energy deliveries during On-Peak and Off-Peak Hours.
- 7.2 Surplus Energy Price - For all Surplus Energy, Idaho Power shall pay to the Seller 85% of the Mid-Columbia Market Energy Cost or the Off-Peak Net Energy Purchase Price as specified in Appendix E, whichever is lower.
- 7.3 Increase in Nameplate Capacity - If the Seller increases the Nameplate Capacity of the Seller's Facility as a result of increased prime mover, refurbishing equipment, upgrading equipment, reconfiguration of equipment, operation modifications, or by any means other than installing additional generation units, then the Nameplate Capacity as defined in paragraph 1.25 shall be

revised to match this increased Nameplate Capacity rating. If the increase in Nameplate Capacity results in the Nameplate Capacity of the Facility exceeding the Eligibility Threshold set forth in Idaho Power's Schedule 85, P.U.C. ORE. No. E-27, then on a going-forward basis Idaho Power shall pay Seller the Net Energy Price specified in Section 7.1 for the fraction of total Net Energy delivered equal to 10,000 kW divided by the Nameplate Capacity of the upgraded Facility for all non-solar Facilities or for the fraction of total Net Energy delivered equal to 3,000 kW divided by the Nameplate Capacity of the upgraded Facility for all solar Facilities 3 MW or less with standard contract rates. For the remaining fraction of Net Energy Idaho Power Company and Seller shall agree to a new negotiated rate. Seller shall be responsible for ensuring that any planned increase in the Nameplate Capacity or the maximum instantaneous capacity of the Facility complies with Seller's Interconnection Agreement, Transmission Agreement and any other relevant agreements.

- 7.4 Delay Damages Payment – Delay Damages will be billed to the Seller monthly and Seller shall make payment in full within ten (10) business days of date of the billing. Failure to pay these damages as specified will be an Event of Default. Any unpaid amounts will be deducted from any payments to the project prior to disbursement of those payments.
- 7.5 Mechanical Availability Damages Payment – Mechanical Availability Damages will be billed to the Seller annually after the end of each Contract Year and Seller shall make payment in full within ten (10) business days of date of the billing. Failure to pay these damages as specified will be an Event of Default. Any unpaid amounts will be deducted from the next available payment to the project prior to disbursement.
- 7.6 Payment Due Date – Energy payments (inclusive of Integration Charge) to the Seller including any deductions for unpaid Delay Damages, Mechanical Availability Damages or any other billings due Idaho Power will be disbursed within thirty (30) days of the date which Idaho Power receives and accepts the documentation of the monthly Net Energy actually produced by the Seller's Facility and delivered to Idaho Power as specified in Appendix A.

ARTICLE VIII: ENVIRONMENTAL ATTRIBUTES

- 8.1 Idaho Power waives any claim to ownership of Environmental Attributes. Environmental Attributes include, but are not limited to, Green Tags, Green Certificates, Renewable Energy Credits (RECs) and Tradable Renewable Certificates (TRCs) directly associated with the production of energy from the Seller's Facility.

ARTICLE IX: TRANSMISSION AGREEMENT

- 9.1 Transmission Agreement - The Seller will arrange and pay for the delivery of Net Energy over the facilities of the Transmitting Entity(s) (XXXXX) to the Point of Delivery. The delivery of Net Energy from the Facility to the Idaho Power Point of Delivery shall be in accordance with the terms and conditions of a Transmission Agreement between the Seller and the Transmitting Entities.
- 9.2 Acceptance of Transmission Agreement - This Agreement is expressly conditioned and contingent upon Idaho Power's acceptance of the Transmission Agreement. Such acceptance will not be unreasonably withheld. A default by Seller under the Transmission Agreement will be a Material Default under this Agreement.
- 9.3 Losses - Idaho Power will only purchase the Net Energy that is delivered by the Transmitting Entity to Idaho Power at the Point of Delivery. Losses will be calculated as provided in Appendix B of this Agreement.
- 9.4 Required Transmission Agreement provisions for Facilities not located within the Idaho Power Electrical System Control Area –

If the Facility is not located within the Idaho Power Electrical System Control Area, the following requirements must be contained within the Transmission Agreement (s);

- 9.4.1 Scheduling and delivery of Net Energy – The Transmission Agreement shall include provisions that require the Transmitting Entity(s) to schedule and deliver

the Facility's energy to Idaho Power in accordance with industry standard Western Electricity Coordinating Council (WECC) scheduling processes and procedures.

- 9.4.2 Energy Reserve Requirements – The Transmitting Entity(s) will provide all generation reserves as required by the WECC and/or as required by any other governing agency or industry standard to deliver the Net Energy to the specified Point(s) of Delivery.
- 9.4.3 Documentation – Seller and/or the Transmitting Entity will provide Idaho Power with monthly documentation in a form acceptable to Idaho Power showing the amount of energy scheduled and delivered to Idaho Power on an hourly bases.

ARTICLE X: RECORDS

- 10.1 Maintenance of Records - Seller shall maintain at the Facility or such other location mutually acceptable to the Parties adequate total generation (kWh), Net Energy, Station Use and maximum generation (kW) records in a form and content recommended by Idaho Power.
- 10.2 Inspection - Either Party, after reasonable notice to the other Party, shall have the right, during normal business hours, to inspect and audit any or all generation (kWh), Net Energy, Station Use and maximum generation (kW) records pertaining to the Seller's Facility.

ARTICLE XI: OPERATIONS

- 11.1 Communications - Idaho Power, the Transmitting Entity and the Seller shall maintain appropriate operating communications through Idaho Power's Designated Dispatch Facility in accordance with Appendix A of this Agreement.
- 11.2 Energy Acceptance –Idaho Power shall be excused from accepting and paying for Net Energy produced by the Facility and delivered by the Transmitting Entity on behalf of the Seller to the Point of Delivery, if it is prevented from doing so by an event of Force Majeure, or if Idaho Power determines that

curtailment, interruption or reduction of Net Energy deliveries is necessary because of line construction or maintenance requirements, emergencies, electrical system operating conditions on its system or as otherwise required by Prudent Electrical Practices. If, for reasons other than an event of Force Majeure, Idaho Power requires such a curtailment, interruption or reduction of Net Energy deliveries for a period that exceeds twenty (20) days, beginning with the twenty-first day of such interruption, curtailment or reduction, Seller will be deemed to be delivering Net Energy at a rate equivalent to the pro rata daily average of the amount specified in paragraph 6.2. Idaho Power will notify Seller when the interruption, curtailment or reduction is terminated.

11.3 Scheduled Maintenance – On or before January 31 of each calendar year, Seller shall submit a written proposed maintenance schedule of significant Facility and/or Transmitting Entity maintenance for that calendar year and Idaho Power, Seller and the Transmitting Entity shall mutually agree as to the acceptability of the proposed schedule. The Parties’ determination as to the acceptability of the Seller’s timetable for scheduled maintenance will take into consideration Prudent Electrical Practices, Idaho Power system requirements and the Seller’s preferred schedule. Neither Party shall unreasonably withhold acceptance of the proposed maintenance schedule.

11.4 Maintenance Coordination - The Seller, Idaho Power and the Transmitting Entity shall, to the extent practical, coordinate their respective line and Facility maintenance schedules such that they occur simultaneously.

11.5 Contact Prior to Curtailment - Idaho Power will make a reasonable attempt to contact the Seller and/or the Transmitting Entity prior to exercising its rights to curtail, interrupt or reduce deliveries from the Transmitting Entity from the Seller’s Facility. Seller and the Transmitting Entity understand that, in the case of emergency circumstances, real time operations of the electrical system, and/or unplanned events Idaho Power may not be able to provide notice to the Seller or the Transmitting Entity prior to interruption, curtailment, or reduction of electrical energy deliveries to Idaho Power.

11.6 Increase in Nameplate Capacity – If the Seller increases the Nameplate Capacity of the Sellers Facility as described in paragraph 7.3 of this agreement to be greater than the Maximum Capacity originally provided by the Seller, the Seller must provide Idaho Power with verifiable documentation from both the Transmitting Entity and the Idaho Power delivery business unit that clearly indicates that the Transmitting Entity is capable and willing to deliver the increased quantity of energy to Idaho Power and that the Idaho Power delivery business unit is able to accept the increased quantity of energy at the designated Point of Delivery. This documentation must be accepted and approved by Idaho Power prior to the Transmitting Entity delivering any energy to Idaho Power that exceeds the original Maximum Capacity as established within this Agreement.

ARTICLE XII: RELIABILITY MANAGEMENT SYSTEM

If the Facility is not located within the Idaho Power Electrical System Control Area, the Seller will be required to comply with the Reliability Management processes of the control area operator having control of the specific location of the Facility and this Article XII will not apply. If the Facility is located within the Idaho Power Control Area, the Seller is required to comply with the following:

- 12.1 Purpose. In order to maintain the reliable operation of the transmission grid, the WECC Reliability Criteria Agreement sets forth reliability criteria adopted by the WECC to which Seller and Idaho Power shall be required to comply. Seller acknowledges receipt of and understanding of the WECC Reliability Criteria Agreement and how it pertains to the Seller's Facility.
- 12.2 Compliance. Seller shall comply with the requirements of the WECC Reliability Criteria Agreement, including the applicable WECC reliability criteria set forth in Section IV of Annex A thereof, and, in the event of failure to comply, Seller agrees to be subject to the sanctions applicable to such failure. Such sanctions shall be assessed pursuant to the procedures contained in the WECC Reliability Criteria Agreement. Each and all of the provisions of the WECC Reliability Criteria Agreement are hereby incorporated by reference into this Article XII as

though set forth fully herein, and Seller shall for all purposes be considered a Participant, and shall be entitled to all of the rights and privileges and be subject to all of the obligations of a Participant, under and in connection with the WECC Reliability Criteria Agreement, including, but not limited to the rights, privileges and obligations set forth in Sections 5, 6 and 10 of the WECC Reliability Criteria Agreement.

- 12.3 Payment of Sanctions. Seller shall be responsible for reimbursing Idaho Power for any monetary sanctions assessed against Idaho Power by WECC due to the action or inaction of the Seller, pursuant to the WECC Reliability Criteria Agreement. Seller also shall be responsible for payment of any monetary sanction assessed against the Seller by WECC pursuant to the WECC Reliability Criteria Agreement. Any such payment shall be made pursuant to the procedures specified in the WECC Reliability Criteria Agreement.
- 12.4 Transfer of Control or Sale of Generation Facilities. In any sale or transfer of control of any generation facilities subject to this Agreement, Seller shall, as a condition of such sale or transfer, require the acquiring party or transferee with respect to the transferred facilities either to assume the obligations of the Seller with respect to this Agreement or to enter into an agreement with Idaho Power imposing on the acquiring party or transferee the same obligations applicable to the Seller pursuant to this Article XII.
- 12.5 Publication. Seller consents to the release by the WECC of information related to the Seller's compliance with this Agreement only in accordance with the WECC Reliability Criteria Agreement.
- 12.6 Third Parties. Except for the rights and obligations between the WECC and the Seller specified in this Article XII, this Agreement creates contractual rights and obligations solely between the Parties. Nothing in this Agreement shall create, as between the Parties or with respect to the WECC: (a) any obligation or liability whatsoever (other than as expressly provided in this Agreement), or (b) any duty or standard of care whatsoever. In addition, nothing in this Agreement shall create any duty, liability or standard of care whatsoever as to any other party.

Except for the rights, as a third-party beneficiary under this Article XII, of the WECC against the Seller for the Seller, no third party shall have any rights whatsoever with respect to enforcement of any provision of this Agreement. Idaho Power and the Seller expressly intend that the WECC is a third-party beneficiary to this Article XII, and the WECC shall have the right to seek to enforce against the Seller any provision of this Article XII, provided that specific performance shall be the sole remedy available to the WECC pursuant to Article XII of this Agreement, and the Seller shall not be liable to the WECC pursuant to this Agreement for damages of any kind whatsoever (other than the payment of sanctions to the WECC, if so construed), whether direct, compensatory, special, indirect, consequential, or punitive.

12.7 Reserved Rights. Nothing in the Article XII of this Agreement or the WECC Reliability Criteria Agreement shall affect the right of Idaho Power, subject to any necessary regulatory approval, to take such other measures to maintain reliability, including disconnection that Idaho Power may otherwise be entitled to take.

12.8 Termination of Article XII. Seller may terminate its obligations pursuant to this Article XII:

12.8.1 If after the effective date of this Article XII, the requirements of the WECC Reliability Criteria Agreement applicable to the Seller are amended so as to adversely affect the Seller, provided that the Seller gives fifteen (15) days' notice of such termination to Idaho Power and WECC within forty-five (45) days of the date of issuance of a FERC order accepting such amendment for filing, provided further that the forty-five (45) day period within which notice of termination is required may be extended by the Seller for an additional forty-five (45) days if the Seller gives written notice to Idaho Power of such requested extension within the initial forty-five (45) day period; or

12.8.2 For any reason on one year's written notice to Idaho Power and the WECC.

ARTICLE XIII: INDEMNIFICATION AND INSURANCE

13.1 Indemnification - Each Party shall agree to hold harmless and to indemnify the other Party, its

officers, directors, agents, affiliates, subsidiaries, parent company and employees against all loss, damage, expense and liability to third persons for injury to or death of person or injury to property, proximately caused by the indemnifying Party's construction, ownership, operation or maintenance of, or by failure of, any of such Party's works or facilities used in connection with this Agreement. The indemnifying Party shall, on the other Party's request, defend any suit asserting a claim covered by this indemnity. The indemnifying Party shall pay all costs, including reasonable attorney fees that may be incurred by the other Party in enforcing this indemnity.

13.2 Insurance -

13.2.1 If the Facility's Nameplate Capacity as determined in paragraph 1.25 of this Agreement is greater than 200 kW, the Seller shall secure and continuously carry the following insurance coverage:

13.2.1.1 Comprehensive General Liability Insurance for both bodily injury and property damage with limits equal to \$1,000,000, each occurrence, combined single limit. The deductible for such insurance shall be consistent with current Insurance Industry Utility practices for similar property.

13.2.1.2 The above insurance coverage shall be placed with an insurance company with an A.M. Best Company rating of B+ or better and shall include:

- (a) An endorsement naming Idaho Power as an additional insured and loss payee as applicable; and
- (b) A provision stating that such policy shall not be canceled or the limits of liability reduced without sixty (60) days' prior written notice to Idaho Power.

13.2.1.3 Seller to Provide Certificate of Insurance - As required in paragraph 4.1.4 herein and annually thereafter, Seller shall furnish Idaho Power a certificate of insurance, together with the endorsements required therein, evidencing the coverage as set forth above.

13.2.1.4 Seller to Notify Idaho Power of Loss of Coverage - If the insurance coverage required by paragraph 13.2 shall lapse for any reason, Seller will immediately notify Idaho Power in writing. The notice will advise Idaho Power of the specific

reason for the lapse and the steps Seller is taking to reinstate the coverage. Failure to provide this notice and to expeditiously reinstate or replace the coverage will constitute a Material Breach of this Agreement.

ARTICLE XIV: FORCE MAJEURE

14.1 As used in this Agreement, “Force Majeure” or “an event of Force Majeure” means any cause beyond the control of the Seller or of Idaho Power which, despite the exercise of due diligence, such Party is unable to prevent or overcome. Force Majeure includes, 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, or changes in law or regulation occurring after the Operation Date, 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. If either Party is rendered wholly or in part unable to perform its obligations under this Agreement because of an event of Force Majeure, both Parties shall be excused from whatever performance is affected by the event of Force Majeure, provided that:

- (1) The non-performing Party shall, as soon as is reasonably possible after the occurrence of the Force Majeure, give the other Party written notice describing the particulars of the occurrence.
- (2) The suspension of performance shall be of no greater scope and of no longer duration than is required by the event of Force Majeure.
- (3) No obligations of either Party which arose before the occurrence causing the suspension of performance and which could and should have been fully performed before such occurrence shall be excused as a result of such occurrence.

ARTICLE XV: LIABILITY; DEDICATION

15.1 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 or affect the status of Idaho Power as an independent public utility corporation or Seller as an independent individual or entity.

ARTICLE XVI: SEVERAL OBLIGATIONS

16.1 Except where specifically stated in this Agreement to be otherwise, the duties, obligations and liabilities of the Parties are intended to be several and not joint or collective. Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or impose a trust or partnership duty, obligation or liability on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this Agreement.

ARTICLE XVII: WAIVER

17.1 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 shall not be deemed a waiver with respect to any subsequent Default or other matter.

ARTICLE XVIII: CHOICE OF LAWS AND VENUE

18.1 This Agreement shall be construed and interpreted in accordance with the laws of the State of Oregon without reference to its choice of law provisions.

18.2 Venue for any litigation arising out of or related to this Agreement will lie in the District Court of the Ninth Judicial District of Oregon in and for the County of Malheur.

ARTICLE XIX: DISPUTES, DEFAULTS AND REMEDIES

19.1 Disputes - All disputes related to or arising under this Agreement, including, but not limited to, the interpretation of the terms and conditions of this Agreement, will be submitted to the Commission for resolution.

19.2 Notice of Default -

19.2.1 Defaults. If either Party fails to perform any of the terms or conditions of this Agreement (an “Event of Default” or “Default”), the non-defaulting Party shall cause notice in writing to be given to the defaulting Party, specifying the manner in which such Default occurred.

- a.) If the defaulting Party shall fail to cure such Default within the sixty (60) days after service of such notice, or if the defaulting Party reasonably demonstrates to the other Party that the Default can be cured within a commercially reasonable time but not within such sixty (60) day period and then fails to diligently pursue such cure, then, the non-defaulting Party may, at its option, terminate this Agreement and/or pursue its legal or equitable remedies.
- b.) If the Notice of Default provided by the non-defaulting Party is due to the Seller’s failure to achieve the Scheduled Operation Date, paragraph 19.2.1.a is not applicable and the defaulting Party shall cure the Default within the Delay Cure Period. Failure of the Seller to cure this default within the Delay Cure Period may result in this Agreement being terminated.
- c.) If the Notice of Default provided by the non-defaulting Party is due to the Seller’s Default as specified in paragraph 6.4.4, paragraph 19.2.1.a or 19.2.1.b are not applicable and the non-defaulting party may terminate this Agreement at any time after Notice of Default has been provided.

- 19.2.2 Material Breaches – The notice and cure provisions in paragraph 19.2.1 do not apply to Defaults identified in this Agreement as Material Breaches. Material Breaches must be cured as expeditiously as possible following occurrence of the breach.
- 19.3 Security for Performance - Prior to the Operation Date and thereafter for the full term of this Agreement, Seller will provide Idaho Power with the following:
- 19.3.1 Insurance - Evidence of compliance with the provisions of paragraph 13.2. If Seller fails to comply, such failure will be a Material Breach and may only be cured by Seller supplying evidence that the required insurance coverage has been replaced or reinstated;
- 19.3.2 Engineer’s Certifications - Every three (3) years after the Operation Date, Seller will supply Idaho Power with a Certification of Ongoing Operations and Maintenance (O & M) from a Registered Professional Engineer licensed in the State of Oregon, which Certification of Ongoing O & M shall be in the form specified in Appendix C. Seller’s failure to supply the required certificate will be an Event of Default. Such a Default may only be cured by Seller providing the required certificate; and
- 19.3.3 Licenses and Permits - During the full term of this Agreement, Seller shall maintain compliance with all permits and licenses described in paragraph 4.1.1 of this Agreement. In addition, Seller will supply Idaho Power with copies of any new or additional permits or licenses. At least every fifth Contract Year, Seller will update the documentation described in paragraph 4.1.1. If at any time Seller fails to maintain compliance with the permits and licenses described in paragraph 4.1.1 or to provide the documentation required by this paragraph, such failure will be an Event of Default and may only be cured by Seller submitting to Idaho Power evidence of compliance from the permitting agency.
- 19.3.4 Security Requirements – During the full term of this Agreement, Seller shall maintain the Security Requirements established in accordance with paragraph 4.1.6. Failure to maintain these Security Requirements will be a Material Breach of this Agreement.

19.3.4.1 If the Seller fails to maintain the Security Requirements as specified in paragraph 19.3.4 and it is deemed the Seller is in Material Breach of this Agreement, if the Material Breach is a result of the Seller defaulting on a Facility construction loan, the Seller shall provide Idaho Power notice of the Facility construction loan default. Idaho Power may require the Seller to provide Default Security to remedy this Material Breach. Upon notice from Idaho Power to the Seller requiring the Seller to provide Default Security to remedy this Material Breach, within 10 business days of said notice, the Seller may provide Idaho Power evidence for review that the Seller has negotiated satisfactory financial arrangements with the construction loan lender that mitigates the Seller's financial risk. Upon review of the Seller's provided documentation, if Idaho Power determines that the negotiated financial arrangements satisfactorily mitigates the Seller's financial risk, Idaho Power will deem this Material Breach to be cured. If Idaho Power determines that the provided documentation does not provide evidence that the Seller's risk has been satisfactorily mitigated, the Seller will be required to provide Default Security within 5 business days of Idaho Power's notification that the Material Breach has not been cured.

19.3.5 Recoupment of Damages

19.3.5.1 Default Security Available. – If a Default has occurred and has not been cured and if the Seller has posted Default Security, Idaho Power may draw upon that security, in accordance with paragraph 19.2.1 to satisfy any damages.

19.3.5.2 Default Security Unavailable – If a Default has occurred and has not been cured and if Seller has not posted Default Security, or if Idaho Power has exhausted the Default Security, Idaho Power may collect any remaining

amount owing by; (1) lump sum payment to Idaho Power by the Seller or (2) partially withholding future payments to the Seller over a reasonable period of time. Idaho Power and the Seller shall work together in good faith to establish the reasonable period and monthly amounts, of such withholding so as to avoid Seller's default on its commercial or financing agreements necessary for its continued operations of the Facility.

19.3.6 Termination

19.3.6.1 In the event a Default or a Material Breach by the Seller as specified in this Agreement results in the termination of this Agreement and the Seller or a party substantially the same as the Seller, subsequently seeks to enter into a new standard QF contract for this same Facility, Then the new standard QF contract shall run for the period that the original contract would have run, and shall contain the same terms, rates and conditions as the original Agreement.

19.3.6.2 In the event a Default or a Material Breach by the Seller as specified in this Agreement results in the termination of this Agreement, the Seller shall pay Idaho Power damages equal to the positive difference, if any, obtained by subtracting the Net Energy Purchase Price from the projected forward Mid-Columbia Market Energy Cost for 24 months beginning with the next full month after the date of termination multiplied by the Annual Net Energy Amounts.

ARTICLE XX: GOVERNMENTAL AUTHORIZATION

20.1 This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party of this Agreement.

ARTICLE XXI: SUCCESSORS AND ASSIGNS

21.1 This Agreement and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto, except that no assignment hereof by either Party shall become effective without the written consent of both Parties being first obtained. Such consent shall not be unreasonably withheld. Notwithstanding the foregoing, any party which Idaho Power may consolidate, or into which it may merge, or to which it may convey or transfer substantially all of its electric utility assets, shall automatically, without further act, and without need of consent or approval by the Seller, succeed to all of Idaho Power's rights, obligations and interests under this Agreement. This article shall not prevent a financing entity with recorded or secured rights from exercising all rights and remedies available to it under law or contract. Idaho Power shall have the right to be notified by the financing entity that it is exercising such rights or remedies.

ARTICLE XXII: MODIFICATION

22.1 No modification to this Agreement shall be valid unless it is in writing and signed by both Parties and subsequently approved by the Commission.

ARTICLE XXIII: TAXES

23.1 Each Party shall pay before delinquency all taxes and other governmental charges which, if failed to be paid when due, could result in a lien upon the Facility or the Interconnection Facilities.

ARTICLE XXIV: NOTICES

24.1 All written notices under this agreement shall be directed as follows and shall be considered delivered when deposited in the U. S. Mail, first-class postage prepaid, as follows:

To Seller: _____

To Idaho Power:

Original document to:

Vice President, Power Supply
Idaho Power Company
P. O. Box 70
Boise, Idaho 83707

Copy of document to:

Cogeneration and Small Power Production
Idaho Power Company
P. O. Box 70
Boise, Idaho 83707

ARTICLE XXV: ADDITIONAL TERMS AND CONDITIONS

25.1 This Agreement includes the following appendices, which are attached hereto and included by reference:

- Appendix A - Generation Scheduling and Reporting
- Appendix B - Facility and Point of Delivery
- Appendix C - Engineer's Certifications
- Appendix D - Definition of a Small Cogeneration Facility or Small Power Production Facility eligible to receive the standard rates and standard contract.
- Appendix E - Applicable Prices from Schedule 85

ARTICLE XXVI: SEVERABILITY

26.1 The invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of any other terms or provisions and this Agreement shall be construed in all other respects as if the invalid or unenforceable term or provision were omitted.

ARTICLE XXVII: COUNTERPARTS

27.1 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

ARTICLE XXVIII: ENTIRE AGREEMENT

28.1 This Agreement constitutes the entire Agreement of the Parties concerning the subject matter hereof and supersedes all prior or contemporaneous oral or written agreements between the Parties concerning the subject matter hereof.

IN WITNESS WHEREOF, The Parties hereto have caused this Agreement to be executed in their respective names on the dates set forth below:

Idaho Power Company	_____
By _____	By _____
Dated _____	Dated _____
"Idaho Power"	"Seller"

APPENDIX A

A –1 MONTHLY POWER PRODUCTION AND SWITCHING REPORT FOR PROJECTS
LOCATED WITHIN THE IDAHO POWER ELECTRICAL SYSTEM CONTROL AREA

At the end of each month, the following required documentation will be submitted to:

Idaho Power Company
Attn: Cogeneration and Small Power Production
P.O. Box 70
Boise, Idaho 83707

The Meter readings required on this report will be the reading on the Meter Equipment measuring the Facility's Net Energy delivered by the Transmitting Entity to the Idaho Power electrical system and/or any other required energy measurements to adequately administer this Agreement. If the Metering Equipment is not located at the point which is able to measure the exact energy deliveries to the Idaho Power electrical system, then the metered energy amounts will be adjusted to account for electrical Losses occurring between the metering point and the point which the energy is delivered to the Idaho Power electrical system.

Idaho Power Company

Cogeneration and Small Power Production

MONTHLY POWER PRODUCTION AND SWITCHING REPORT

Month _____ Year _____

Project Name _____ Project Number: _____
 Address _____ Phone Number: _____
 City _____ State _____ Zip _____

	Facility Output	Station Usage	Metered Maximum Generation kW
Meter Number:	_____	_____	
End of Month kWh Meter Reading:	_____	_____	
Beginning of Month kWh Meter:	_____	_____	
Difference:	_____	_____	
Times Meter Constant:	_____	_____	
kWh for the Month:	_____	-	=
Metered Demand:	_____	_____	Net Generation

As specified in this Agreement, the Seller shall include with this monthly report a summary statement of the Mechanical Availability of this Facility for the calendar month. This summary shall include details as to how the Seller calculated this value and summary of the Facility data used in the calculation. Idaho Power and the Seller shall work together to mutually develop a summary report that provides the required data. Idaho Power reserves the right to review the detailed data used in this calculation as allowed within the Agreement.

Breaker Opening Record

<u>Date</u>	<u>Time</u>	<u>Meter</u>

Breaker Closing Record

*	<u>Reason</u>

<u>Date</u>	<u>Time</u>	<u>Meter</u>

- * **Breaker Opening Reason Codes**
- 1 Lack of Adequate Prime Mover
 - 2 Forced Outage of Facility
 - 3 Disturbance of IPCo System
 - 4 Scheduled Maintenance
 - 5 Testing of Protection Systems
 - 6 Cause Unknown

I hereby certify that the above meter readings are true and correct as of Midnight on the last day of the above month and that the switching record is accurate and complete as required by the Energy Sales Agreement to which I am a Party.

7 Other (Explain)

Signature

Date

A-2 ROUTINE REPORTING FOR PROJECTS WITHIN THE IDAHO POWER ELECTRICAL SYSTEM CONTROL AREA.

Idaho Power Designated Dispatch Facility contact information

Daily Energy Production Reporting

All projects with a Nameplate Capacity of 1 MW or greater shall:

Call daily by 10 a.m., 1-800-356-4328 or 1-800-635-1093 and leave the following information:

- Project Identification - Project Name and Project Number
- Current Meter Reading
- Estimated Generation for the current day
- Estimated Generation for the next day

If Idaho Power determines that adequate generation data is available for this Facility's daily generation, Idaho Power may modify these reporting requirements

Planned and Unplanned Project outages

Call 1-800-345-1319 and leave the following information:

- Project Identification - Project Name and Project Number
- Approximate time outage occurred
- Estimated day and time of project coming back online

Seller's Contact Information

24-Hour Project Operational Contact

Name: _____
 Telephone Number: _____
 Cell Phone: _____

Project On-site Contact information

Telephone Number: _____

A-3 MONTHLY POWER PRODUCTION AND SWITCHING REPORT FOR PROJECTS
LOCATED OUTSIDE OF THE IDAHO POWER ELECTRICAL SYSTEM CONTROL AREA.

- a.) The Transmitting Entity will schedule and deliver the Facility's Net Energy to the Idaho Power electrical system at the Point of Delivery in accordance with the electrical industry standard WECC scheduling and delivery processes. As specified in paragraph 9.4 the Seller and/or the Transmitting Entity shall provide Idaho Power with monthly documentation indicating the hourly energy scheduled and delivered to Idaho Power. This documentation will be reconciled with Idaho Power records of energy scheduled and received from this Facility. In the event a discrepancy exists between the Idaho Power records and the Seller / Transmitting Entity documents, Idaho Power records will be considered to be accurate until such time as Idaho Power, the Seller and the Transmitting Entity mutually agree on an adjustment to the Idaho Power records.
- b.) The Seller shall submit to Idaho Power a Monthly Power Production And Switching Report as specified in Appendix A-1 of this Agreement. The meter readings on this report shall be the meter readings at the actual Facility measuring the actual energy deliveries to Transmitting Entity at the Facility.

A-4 ROUTINE REPORTING FOR PROJECTS OUTSIDE OF THE IDAHO POWER
ELECTRICAL SYSTEM CONTROL AREA.

The Seller and Transmitting Entity shall maintain appropriate communications with the Idaho Power Designed Dispatch Facility in compliance with electric industry standard WECC energy scheduling processes and procedures.

APPENDIX B

FACILITY AND POINT OF DELIVERY

PROJECT NO. _____

B-1 DESCRIPTION OF FACILITY

B-2 LOCATION OF FACILITY

B-3 SCHEDULED FIRST ENERGY AND OPERATION DATE

Seller has selected _____ as the estimated Scheduled First Energy Date.

Seller has selected _____ as the estimated Scheduled Operation Date.

In making these selections, Seller recognizes that adequate testing of the Facility and completion of all requirements in paragraph 5.2 of this Agreement must be completed prior to the project being granted an Operation Date.

B-4 MAXIMUM CAPACITY AMOUNT:

This value will be _____ MW. This value is the maximum energy (MW) that potentially could be delivered by the Seller's Facility to the Idaho Power electrical system at any moment in time and will be consistent with the designed capacity of the Facility.

B-5 POINT OF DELIVERY

_____ at the point on the Idaho Power electrical system where the Sellers Facility's Net energy is delivered by the Transmitting Entity to the Idaho Power electrical system.

B-6 LOSSES

For Facilities within the Idaho Power Electrical System Control area - If the Idaho Power Metering equipment is capable of measuring the exact energy deliveries by the Transmitting Entity on behalf of the Seller to the Idaho Power electrical system at the Point of Delivery, no Losses will be calculated for this Facility. If the Idaho Power Metering is unable to measure the exact energy deliveries by the Transmitting Entity on behalf of the Seller to the Idaho Power electrical system at the Point of Delivery, a Losses calculation will be established to measure the energy losses (kWh) between the Seller's Facility and the Idaho Power Point of Delivery. This loss calculation will be initially set at 2% of the kWh energy production recorded on the Facility generation metering equipment. At such time as Seller provides Idaho Power with the electrical equipment specifications (transformer loss specifications, conductor sizes, etc) of all of the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power will configure a revised loss calculation formula to be agreed to by both parties and used to calculate the kWh Losses for the remaining term of the Agreement. If at anytime during the term of this Agreement, Idaho Power determines that the loss calculation does not correctly reflect the actual kWh losses attributed to the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power may adjust the calculation and retroactively adjust the previous months kWh loss calculations.

- a. For Facilities outside of the Idaho Power Electrical Control area - Idaho Power will only pay for Net Energy that is scheduled and delivered by the Transmitting Entity to the Point of Delivery. All energy Losses between the Facility and the Point of Delivery will be borne by

either the Transmitting Entity or the Seller.

B-7 INTERCONNECTION FACILITIES

The Seller and Transmitting Entity shall construct, operate and maintain the Facility and all interconnection and protection equipment in accordance with Prudent Electrical Practices, the National Electric Safety Code and any other applicable local, state and federal codes

B-8 METERING AND TELEMETRY

- a. For Facilities located within the Idaho Power Electrical System Control Area

Metering Equipment - At the minimum the Metering Equipment and Telemetry equipment must be able to provide and record hourly energy deliveries by the Transmitting Entity to the Point of Delivery and any other energy measurements required to administer this Agreement.

Telemetry Equipment - At the minimum the Telemetry Equipment must be able to provide Idaho Power with continuous instantaneous telemetry of the Facility's energy deliveries to the Transmitting Entity. The Seller will arrange for and make available at Seller's cost, a communications circuit acceptable to Idaho Power, dedicated to Idaho Power's use to be used for load profiling and another communications circuit dedicated to Idaho Power's communication equipment for continuous telemetering of the Facility's energy deliveries to the Transmitting Entity to Idaho Power's Designated Dispatch Facility.

All costs including but not limited to actual equipment, installation, engineering, monthly communication circuit fees, operations and maintenance will be the responsibility of the Seller.

Exact details of the Metering and Telemetry equipment and specifications will need to be added to this appendix once more information becomes available in regards to the physical

and electrical configuration at this site and the configuration of the interconnection at the Point of Delivery.

- b. For Facilities located outside of the Idaho Power Electrical System Control Area

Metering Equipment - At the minimum the Metering Equipment must be able to provide and record hourly energy deliveries by the Facility to the Transmitting Entity and any other energy measurements required to administer this Agreement.

Telemetry Equipment – If Telemetry Equipment is required by the Transmitting Entity and the Transmitting Entity and Idaho Power determine that it is required that Idaho Power have access to the automated data. The Seller shall be responsible for all costs associated with providing the automated telemetry data to Idaho Power.

Exact details of the Metering and Telemetry equipment and specifications will need to be added to this appendix once more information becomes available in regards to the physical and electrical configuration at this site and the configuration of the interconnection at the Point of Delivery.

APPENDIX C
ENGINEER'S CERTIFICATION
OF
OPERATIONS & MAINTENANCE POLICY

The undersigned _____, on behalf of himself and _____, hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Oregon.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. _____ and is hereinafter referred to as the "Project."
4. That the Project, which is commonly known as the _____, is located in Section _____, Township _____, Range _____, _____ County, _____.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for period of _____ years.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has reviewed and/or supervised the review of the Policy for Operation and Maintenance ("O&M") for this Project and it is his professional opinion that, provided said Project has been designed and built to appropriate standards, adherence to said O&M Policy will result in the

Project's producing at or near the design electrical output, efficiency and plant factor for a period of _____years.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C
ENGINEER'S CERTIFICATION
OF
ONGOING OPERATIONS AND MAINTENANCE

The undersigned _____, on behalf of himself and _____ hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Oregon.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. _____ and hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____, is located at _____.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a period of _____ years.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has made a physical inspection of said Project, its operations and maintenance records since the last previous certified inspection. It is Engineer's professional opinion, based on the Project's appearance, that its ongoing O&M has been substantially in accordance with said O&M Policy; that it is in reasonably good operating condition; and that if adherence to said O&M Policy continues, the Project will continue producing at or near its design electrical output, efficiency and plant factor for the

remaining _____ years of the Agreement.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C

ENGINEER'S CERTIFICATION

OF

DESIGN & CONSTRUCTION ADEQUACY

The undersigned _____, on behalf of himself and _____, hereinafter collectively referred to as "Engineer", hereby states and certifies to Idaho Power as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Oregon.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement", between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project, which is the subject of the Agreement and this Statement, is identified as IPCo Facility No _____ and is hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located in Section ____ Township _____, Range _____, _____ County, _____.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a _____ (____) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project and has made the analysis of the plans and specifications independently.
8. That Engineer has reviewed the engineering design and construction of the Project, including the civil work, electrical work, generating equipment, prime mover conveyance system, Seller furnished Interconnection Facilities and other Project facilities and equipment.

9. That the Project has been constructed in accordance with said plans and specifications, all applicable codes and consistent with Prudent Electrical Practices as that term is described in the Agreement.

10. That the design and construction of the Project is such that with reasonable and prudent operation and maintenance practices by Seller, the Project is capable of performing in accordance with the terms of the Agreement and with Prudent Electrical Practices for a _____ (_____) year period.

11. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, in interconnecting the Project with its system, is relying on Engineer's representations and opinions contained in this Statement.

12. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____
(P.E. Stamp)

Date _____

APPENDIX D

DEFINITION OF A SMALL COGENERATION FACILITY

OR

SMALL POWER PRODUCTION FACILITY

ELIGIBLE TO RECEIVE THE STANDARD RATES AND STANDARD CONTRACT

A Qualifying Facility (either a small power production facility or a cogeneration facility) (“QF”) will be eligible to receive the standard rates and standard contract if the nameplate capacity of the QF, 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, does not exceed the Eligibility Threshold set forth in Idaho Power’s Schedule 85, P.U.C. ORE. No E-27.

Definition of Person(s) or Affiliated Person(s):

As used above, the term “same person(s)” or “affiliated person(s)” means 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. However, 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. Furthermore, except for independent Family-Owned or Community-Based facilities, two facilities will 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. A unit of Oregon local government may also be a “passive investor” 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.

Definition of Same Site:

For purposes of the foregoing, 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.

Shared Interconnection and Infrastructure:

QFs otherwise meeting the above-described 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.

Definition of Family Owned:

After excluding the ownership interest of the passive investor whose ownership interests are primarily related to green tag values and tax benefits as the primary ownership benefit, five or fewer individuals own 50 percent or more of the equity of the project entity, or fifteen or fewer individuals own 90 percent or more of the project entity. A "look through" rule applies to closely held entities that hold the project entity, so that equity held by LLCs, trusts, estates, corporations, partnerships or other similar entities is considered held by the equity owners of the look through entity. An individual is a natural person. In counting to five or fifteen, spouses or children of an equity owner of the project owner who also have an equity interest are aggregated and counted as a single individual.

Definition of Community Based:

- a. A community project (or a community sponsored project) must have a recognized and established organization located within the county of the project or within 50 miles of the project that has a genuine role in helping the project be developed and must have some not insignificant continuing role with or interest in the project after it is completed and placed in service. Many varied and different organizations may qualify under this exception. For example, the community organization could be a church, a school, a water district, an agricultural cooperative, a unit of local government, a local utility, a homeowners' association, a charity, a civic organization, and etc.
- b. After excluding the passive investor whose ownership interests are primarily related to green tag values and tax benefits as the primary ownership benefit, the equity (ownership) interests in a community sponsored project must be owned in substantial percentage (80 percent or more) by the following persons (individuals and entities): (i) the sponsoring organization, or its controlled affiliates; (ii) members of the sponsoring organization (if it is a membership organization) or owners of the sponsorship organization (if it is privately owned); (iii) persons who live in the county in which the project is located or who live a county adjoining the county in which the project is located; or (iv) units of local government, charities, or other established nonprofit organizations active either in the county in which the project is located or active in a county adjoining the county in which the project is located.

APPENDIX E

COPY OF APPLICABLE PRICES FROM SCHEDULE 85