A G E N D A

GRANT COUNTY PUBLIC UTILITY DISTRICT
30 C Street SW – Commission Meeting Room
Ephrata, Washington
COMMISSION MEETING
Tuesday, October 14, 2025

An Executive Session may be called at any time for purposes authorized
by the Open Public Meetings Act

8:30 a.m. Executive Session

9:00 a.m. Commission Convenes
Review and Sign Vouchers
Calendar Review

9:30 a.m. Reports from staff

12:00 Noon Lunch

1:00 p.m. Safety Briefing
Pledge of Allegiance
Attendance
Public requests to discuss agenda items/non-agenda items
Correspondence – *(Does not include anonymous letters)*
Business Meeting

1. Consent Agenda

Approval of Vouchers

Meeting minutes of September 23, 2025

2. Regular Agenda

9101 – Resolution Superseding Resolution No. 9080 and Establishing Change Order Approval Limits.

9102 – Resolution Superseding Resolution No. 9079 and Establishing Delegated Purchasing Authority Limits.

9103 – Resolution Adopting a Business Relation Event Expenses Policy.

Motion authorizing the General Manager, on behalf of Grant PUD, to reset the delegated authority levels to the authority granted to the General Manager per Resolution 9080 for Contract 430-11920 with Douglas Public Utility District No. 1. (3535)

Motion authorizing the General Manager/CEO, on behalf of Grant PUD, to execute and approve transfer of funds in the amount of $15.0M from Electric System Revenue Fund and into the Rate Stabilization section of the Electric System Reserve and Contingency (R&C) Fund with an effective date of October 31, 2025 with a reflection of the updated minimum balance in the R&C Fund to $165.0M. (3536)

3. Review Items For Next Business Meeting

Motion authorizing the General Manager/CEO, on behalf of Grant PUD, to execute Contract No. 110-13104 proposed 20 year purchased power agreement (PPA) with Royal Slope, LLC ("Royal Slope") for a 260 MW solar project and 260 MW / 1,040 MWh four-hour battery, commencing no earlier than March 31, 2028. (xxxx)

Motion authorizing the General Manager/CEO, on behalf of Grant PUD, to execute Contract No. 110-13105 for proposed 20 year purchased power agreement (PPA) with Royal Slope Bess, LLC ("Royal Slope") for a 260 MW solar project and 260 MW / 1,040 MWh four-hour battery, commencing no earlier than March 31, 2028. (xxxx)

Motion authorizing the General Manager/CEO to execute Change Order No. 4 to Contract 430-11632 with Arch Staffing and Consulting increasing the not-to-exceed contract amount by $425,000.00 for a new contract total of $5,870,000.00 and resetting the delegated authority levels to the authority granted to the General Manager/CEO per Resolution No. 8609 for charges incurred as a result of Change Order No. 4. (xxxx)

Motion authorizing the General Manager/CEO, on behalf of Grant PUD, to award Engineering Contract 430-12500 to X-Energy, LLC. (xxxx)

4. Reports from Staff (if applicable)

Adjournment

CONSENT AGENDA

Draft – Subject to Commission Review

REGULAR MEETING
OF PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY

September 23, 2025

The Commission of Public Utility District No. 2 of Grant County, Washington, convened at 8:00 a.m. at Grant PUD's Hydro Office Building, 14353 Highway 243 South, Beverly, Washington and via Microsoft Teams Meeting / +1 509-703-5291 Conference ID: 614 157 417# with the following Commissioners present: Terry Pyle, President; Larry Schaapman, Vice-President; Judy Wilson, Secretary; Nelson Cox, Commissioner and Tom Flint, Commissioner.

An executive session was announced at 8:00 a.m. to last until 8:30 a.m. to review performance of a public employee pursuant to RCW 42.30.110(1)(g), to discuss pending litigation pursuant to RCW 42.30.110(1)(i) and to discuss lease or purchase of real estate if disclosure would increase price pursuant to RCW 42.30.110(1)(b). The executive session concluded at 8:55 a.m. and the regular session resumed.

The Commission convened to review vouchers and correspondence.

The Commission calendar was reviewed.

A round table discussion was held regarding the following topics: Appreciation to staff for successful WPUDA association meetings held at Grant facilities on 9/17/25; Route 4B update; 2026 budget management team update and appreciation.

Trade association and committee reports were reviewed.

The Commission recessed at 9:22 a.m.

The Commission resumed at 9:30 a.m.

Vanessa Villela, Senior Manager of Large Power Solutions, provided the Large Power Solutions Business Report.

Chuck Allen, Senior Manager of External Affairs; Annette Lovitt, Public Affairs Officer, provided the External Affairs Business Report.

Jennifer Sager, Senior Manager of Accounting, presented the Travel and Non-Travel Policy Updates.

The Commission recessed at 10:35 a.m.

The Commission resumed at 10:40 a.m.

Angelina Johnson, Senior Manager of Treasury/Finance Planning; Amy Thompson Manager of Treasury Operations, gave the Liquidity Analysis Presentation.

Andrew Grassell, Senior Manager Product Development, provided the Product Development Business Report.

An executive session was announced at 12:00 p.m. to last until 12:55 p.m. to discuss pending litigation with legal counsel present pursuant to RCW 42.30.110(1)(i). The executive session concluded at 12:55 p.m. and the regular session resumed.

A follow-up to a customer phone call regarding the Crescent Bar golf course was reviewed by the Commission.

Consent agenda motion was made by Commissioner Flint and seconded by Commissioner Cox to approve the following consent agenda items:

Payment Number	157949 157964	through	157961 158360	$248,699.47 $45,004,397.67 $45,253,097.14
Payroll Direct Deposit	20272	through	21171	$2,984,161.37
Payroll Tax and Garnishments	20250917A	through	20250917B	$1,321,717.30

Meeting minutes of September 9, 2025.

After consideration, the above consent agenda items were approved by unanimous vote of the Commission.

Motion was made by Commissioner Cox and seconded by Commissioner Flint authorizing the General Manager/CEO to execute Change Order No. 42 to Contract 230-2583 with Voith Hydro, Inc., increasing the not-to-exceed contract amount by $7,722,309.94 for a new contract total of $108,536,494.19 and resetting the delegated authority levels to the authority granted to the General Manager/CEO per Resolution No. 8609 for charges incurred as a result of Change Order No. 42.

Motion was made by Commission Cox and seconded by Commissioner Flint authorizing the General Manager/CEO, on behalf of Grant PUD, to approve an execution of a wholesale marketing agreement beginning September 30, 2025, resulting in a 16-month confirmation with **Morgan Stanley** Capital Group.

Motion was approved by Commissioner Pyle on behalf of the Commission authorizing the General Manager/CEO to execute Change Order No. 2 to Contract 430-12474 with Open Access Technology International, Inc. (OATI) for addition of webAccounting systems or WestTrans and webOASIS increasing the contract total to $855,437.60 for a new total of $1,317,781.60 and resetting the delegated authority levels to the authority granted to the General Manager/CEO per Resolution No. 8609 for charges incurred as a result of Change Order No. 2. After consideration, the motion passed by unanimous vote of the Commission.

Motion was approved on behalf of Commissioner Pyle authorizing the General Manager/CEO to execute Change Order No. 1 to Contract 370-12118 with Adams Schwiez AG, increasing the not-to-exceed contract amount by $800,000.00 for a new contract total of $2,835,000.00 and resetting the delegated authority levels to the authority granted to the General Manager/CEO per Resolution No. 8609 for charges incurred as a result of Change Order No. 1. After consideration, the motion passed by unanimous vote of the Commission.

Motion was approved on behalf of Commissioner Pyle authorizing the General Manager/CEO, on behalf of Grant PUD, to sign Real Estate Purchase and Sale Agreement with Desert Diamond Investments LLC., for the acquisition of approximately 3.02 acres, more or less, and commonly known Grant County Assessor Parcel Number 13-1586-553 in Section 22, Township 21, Range 26 East, W.M. Grant County, Washington. The amount of $789,307.00 was determined based on the appraisal value of $6.00/square foot x 131,551 square feet. After consideration, the motion passed by unanimous vote of the Commission.

Motion was made by Commissioner Pyle authorizing the General Manager/CEO to execute Change Order No. 2 to Contract 230-12511A with ConeTec, increasing the not-to-exceed contract estimated amount by $375,000.00 for a new contract total of $1,312,810.00 and resetting the delegated authority levels to the authority granted to the General Manager/CEO per Resolution No. 8609 for charges incurred as a result of Change Order No. 2.

The Commissioners reviewed future agenda items.

The Commission recessed at 2:12 p.m.

The Commission resumed at 2:15 p.m.

Cary West, Senior Manager Customer Solutions, and Monica Anaya, Customer Service Supervisor, provided the Customer Solutions Business Report.

There being no further business to discuss, the Commission adjourned at 2:55 p.m. on September 23 and reconvened on Thursday, October 2 at 8:00 a.m. at the Wanapum Heritage Center, 29086 Washington 243 Mattawa, WA 99349, for the purpose of attending Archaeology Days and any other business that may come before the Commission with the following Commissioners present: Tom Flint, Terry Pyle, Larry Schaapman, Judy Wilson, and Nelson Cox.

There being no further business to discuss, the September 23, 2025 meeting officially adjourned at _____ on October 2, 2025.

_____
Tom Flint, President

ATTEST:

_____
Larry Schaapman, Secretary

_____
Terry Pyle, Vice President

_____
Judy Wilson, Commissioner

_____
Nelson Cox, Commissioner

REGULAR AGENDA

RESOLUTION NO. 9101

A RESOLUTION SUPERSEDING RESOLUTION NO. 9080 AND ESTABLISHING CHANGE ORDER APPROVAL LIMITS

Recitals

Grant PUD's Commission has determined that it is desirable and in the best interest of Grant PUD to make changes to the levels of change order approval authority delegated to Grant PUD's management.

NOW, THEREFORE, BE IT RESOLVED by the Commission of Public Utility District No. 2 of Grant County, Washington, as follows:

Section 1. All change orders shall require prior approval by Commission motion except as provided below.

Section 2. The General Manager/CEO or their delegate is hereby delegated the authority to execute one or more change orders to any existing contract, provided the cumulative dollar amount of the particular contract, including all prior change orders and the new change order(s), does not exceed the Commission delegated contract authority limits under Resolution No. 9101 or its successors.

Section 3. For contracts which have received prior Commission approval by motion or resolution, the General Manager/CEO or their delegate may execute one or more change orders, provided the dollar amount of the new change order(s), on a cumulative basis, does not exceed $2,500,000.00.

Section 4. A report of all change orders shall be provided to the Commission monthly.

Section 5. All change orders shall be in strict compliance with all laws and Grant PUD policies. Grant PUD's General Counsel shall approve all policies and forms to be used for procurement.

Section 6. The authority of the General Manager/CEO to approve change orders as specified in Section 3 shall be reviewed by the Commission in September 2026 and every subsequent September occurring in even numbered years.

Section 7. This resolution shall supersede and amend all prior resolutions, including Resolution No. 9080 to the extent that they conflict with the delegation limits set forth in this resolution.

PASSED AND APPROVED by the Commission of Public Utility District No. 2 of Grant County, Washington, this 14th day of October, 2025.

President

ATTEST:

Secretary

Vice President

Commissioner

Commissioner

M E M O R A N D U M **September 25, 2025**

TO: Grant PUD Board of Commissioners

VIA: John Mertlich, General Manager/Chief Executive Officer
Ty Ehrman, Senior Vice President, Retail Operations DS TE
Fallon Long, Vice President, Shared Services DS FL

FROM: Patrick Bishop, Senior Manager of Supply Chain DS PB

SUBJECT: Revise Resolution 9080, Change Order Approval Limits

Purpose: To request Commission approval to supersede Resolution 9080 and revise the Change Order Approval Limits

Discussion: In March 2012, Resolution 8609 established the change order approval level delegated to Grant PUD's General Manager provides authority to execute one or more change orders to any existing contract, provided the cumulative dollar amount of the particular contract, including all prior change orders and the new change order(s), does not exceed $500,000, or will increase the contract price over $2,500,000. Prior to March 2012, this approval level was $50,000. Resolution 9080 superseded Resolution 8609, but did not revise the authority level. The proposed recommendation is to increase that authority level set by Resolution 8609, to allow Grant PUD's General Manager to execute one or more change orders to any existing contract, provided the cumulative dollar amount of the particular contract, including all prior change orders and the new change order(s), does not exceed $2,500,000, or will increase the contract price over $5,000,000. Factors listed below necessitate a revision to the purchase authority:

- **Facilitate Faster Decision-Making while remaining within compliance:**
  Increasing the change order authority will enable our General Manager to respond more quickly to operational needs by reducing delays associated with current approval levels. This agility is essential for maintaining momentum on critical projects and ensuring timely delivery of services. The proposed increase remains within the bounds of State requirements and compliance frameworks. It allows for greater operational flexibility while upholding the integrity and transparency of Grant PUD's procurement practices.
- **Adapting to Rising Costs:**
  Over the past several years, inflation has significantly impacted the cost of materials, labor, and services. This economic reality has created a need to reassess and adjust internal financial thresholds to ensure operational efficiency and responsiveness.

Recommendation: Commission approval to supersede Resolution 9080 and revise Grant PUD's General Manager authority to execute one or more change orders to any existing contract, provided the cumulative dollar amount of the particular contract, including all prior change orders and the new change order(s), does not exceed $2,500,000, or will increase the contract price over $5,000,000.

Legal Review: See attached e-mail(s).

RESOLUTION NO. 9102

A RESOLUTION SUPERSEDING RESOLUTION NO. 9079 AND ESTABLISHING DELEGATED PURCHASING AUTHORITY LIMITS

Recitals

Grant PUD's Commission has determined that it is desirable and in the best interest of Grant PUD to make changes to the levels of purchasing authority delegated to Grant PUD's management.

NOW, THEREFORE, BE IT RESOLVED by the Commission of Public Utility District No. 2 of Grant County, Washington that:

Section 1. Grant PUD's General Manager/CEO or their delegate is hereby delegated authority to enter into contracts, for and on behalf of Grant PUD which do not exceed the sum of $5,000,000. The General Manager/CEO or their delegate may, in their discretion, refer any purchase of any amount to the Commission for approval.

Section 2. All contracts shall be in strict compliance with all laws and Grant PUD policies. Grant PUD's General Counsel shall approve all policies and forms to be used for procurement. Any contract which is not on an approved Grant PUD boilerplate form shall first be submitted for review by Grant PUD's General Counsel.

Section 3.

A. Contracts for lease of real property exceeding $5,000.00 per year shall be reported in writing to the Commission as soon as practical following execution.
8. Purchases of goods or services shall not be split for purposes of avoiding the limitations contained herein.
C. Any purchase of goods or services approved by management pursuant to this resolution must be included in Grant PUD's current approved budget.
D. Emergency purchases shall continue to be governed by Grant PUD Resolution No. 9078 or its successors (no dollar limit on General Manager's/CEO's authority).
E. Wholesale electric power purchases shall continue to be governed by Grant PUD Resolution No. 7650 or its successors.

Section 4. Except as otherwise provided herein, all purchases of goods or services shall require prior Commission approval by motion or resolution.

Section 5. The authority of the General Manager/CEO as specified in Section 1 shall be reviewed by the Commission in September 2026 and every subsequent September occurring in even numbered years.

Section 6. This resolution shall supersede and amend all prior Grant PUD resolutions,

including Resolution No. 9079, to the extent that they conflict with the delegation limits set forth in this resolution.

PASSED AND APPROVED by the Commission of Public Utility District No. 2 of Grant County, Washington, this 14th day of October, 2025.

President

ATTEST:

Secretary

Vice President

Commissioner

Commissioner

M E M O R A N D U M **September 25, 2025**

TO: Grant PUD Board of Commissioners

VIA: John Mertlich, General Manager/Chief Executive Officer
Ty Ehrman, Senior Vice President, Retail Operations DS TE
Fallon Long, Vice President, Shared Services DS FL

FROM: Patrick Bishop, Senior Manager of Supply Chain DS PB

SUBJECT: Revise Resolution 9079, Delegated Purchasing Authority Limits

Purpose: To request Commission approval to supersede Resolution 9079 and revise the Delegated Purchasing Authority delegated to Grant PUD's General Manager

Discussion: The current purchase authority for Grant PUD's General Manager of not to exceed $1,000,000 was established by Resolution 8608 in March of 2012; increasing the authority from $300,000. Resolution 9079 superseded Resolution 8608 but did not change the purchase authority amount. This proposed recommendation is to increase that authority level to not to exceed $5,000,000. Factors listed below necessitate a revision to the purchase authority:

- **Facilitate Faster Decision-Making while remaining within compliance:**
  Increasing the purchase authority will enable our General Manager to respond more quickly to operational needs by reducing delays associated with current approval levels. This agility is essential for maintaining momentum on critical projects and ensuring timely delivery of services. The proposed increase remains within the bounds of State requirements and compliance frameworks. It allows for greater operational flexibility while upholding the integrity and transparency of Grant PUD's procurement practices.
- **Alignment with utilities of similar size:**
  Utilities of similar size have adopted similar approval levels.
- **Adapting to Rising Costs:**
  Over the past several years, inflation has significantly impacted the cost of materials, labor, and services. This economic reality has created a need to reassess and adjust internal financial thresholds to ensure operational efficiency and responsiveness.

Recommendation: Commission approval to supersede Resolution 9079 and revise the Delegated Purchasing Authority delegated to Grant PUD's General Manager to enter into contracts, except for the purchase of real property, for and on behalf of Grant PUD, to the not to exceed amount of $5,000,000.

Legal Review: See attached e-mail(s).

RESOLUTION NO. ~~XXXX~~9103

A RESOLUTION ADOPTING A BUSINESS RELATION EVENT EXPENSES POLICY

R e c i t a l s

1. Grant PUD desires to establish a Business Relation Event Expenses Policy to clarify expectations, strengthen internal controls, and ensure consistency and equity related to such expenses; and

2. Grant PUD's Executive Management has reviewed the Business Relation Event Expenses Policy and recommends its adoption in accordance with RCW 42.24.090.

NOW, THEREFORE, BE IT RESOLVED by the Commission of Public Utility District No. 2 of Grant County, Washington, that:

Section 1. The Business Relation Event Expenses Policy attached hereto is hereby adopted and shall be effective November 1, 2025.

Section 2. The General Manager is authorized to modify Grant PUD's Business Relation Event Expenses Policy from time to time subject to the following limitations:

1. Expenses shall be limited to those that are necessary for and consistent with Grant PUD business requirements.
2. The policy and reimbursements shall always be subject to and consistent with the requirements of all applicable laws and regulations.
3. Only reasonable and necessary expenses incurred in accordance with the requirements contained herein shall be reimbursed by Grant PUD.
4. Any proposed change to the policy shall be submitted to Grant PUD's Commission at least 20 days prior to being put into effect. For clarity, the 20-day timeline begins on the date of the applicable Commission meeting.

PASSED AND APPROVED by the Commission of Public Utility District No. 2 of Grant County, Washington, this ~~_____~~14th day of ~~_____~~, October, 2025.

_____
President

ATTEST:

_____
Secretary

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Vice President

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Commissioner

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Commissioner

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M E M O R A N D U M September 9, 2025

TO: John Mertlich, General Manager/Chief Executive Officer

VIA: Bonnie Overfield, VP Finance/Chief Financial Officer Bonnie Overfield (Sep 11, 2025 08:32:12 PDT)

FROM: Jennifer Sager, Sr Manager Accounting

SUBJECT: New Policy-Business Relation Event Expenses Policy

Purpose:
To request Commission approval of the attached Business Relation Event Expenses policy, effective November 1, 2025 in accordance with RCW 42.24.090.

Discussion:
Grant PUD has identified the need to host business meetings and events that may fall outside the scope of its standard Travel and Non-Travel Meals policies. These gatherings, which may include both internal and external participants, are intended to support the District's business objectives and foster mutually beneficial relationships.

The purpose of this policy is to provide a framework for conducting such events in a manner that is consistent, ethical, and aligned with Grant PUD's values and strategic goals. It ensures that all engagements meet legitimate business needs while maintaining transparency and accountability.

The General Manager/CEO will serve as the policy owner and will be responsible for establishing and managing an annual budget based on the anticipated number and cost of these events. The GM/CEO will also ensure that all required approvals and documentation are completed in accordance with the policy guidelines.

In accordance with RCW 42.24.090, the legislative body of a municipal corporation is required to adopt a resolution to establish the rules and regulations governing reimbursable expenses. The proposed Business Relation Event Expenses Policy sets forth specific guidelines for expenses incurred during official business-related events. These expenses fall outside the scope of the municipality's existing Travel and Non-Travel Meals policies, thereby necessitating the adoption of a distinct policy and corresponding resolution to ensure compliance and clarity in reimbursement practices.

Justification:
Grant PUD regularly engages in business activities that require collaboration with internal teams and external stakeholders. While most meetings and events are covered under existing Travel and Non-Travel Meals policies, certain unique business engagements fall outside these parameters. These events are essential for advancing strategic initiatives, fostering partnerships, and supporting operational goals.

Establishing a dedicated policy for such meetings and events ensures that they are conducted in a manner that is ethical, consistent, and aligned with the District's values. It provides clear guidance for planning and execution, promotes fiscal responsibility through budget oversight, and supports transparency and accountability in decision-making.

Assigning ownership of the policy to the GM/CEO ensures appropriate governance and alignment with organizational priorities. The annual budgeting process will allow for proactive planning and resource allocation, while the approval and documentation requirements will safeguard compliance and integrity.

This policy is necessary to support the District's evolving business needs and to ensure that all engagements reflect the professionalism and stewardship expected of Grant PUD.

Recommendation:

Commission approval of new Business Relation Event Expenses policy, effective date of November 1, 2025 in accordance with RCW 42.24.090.

Legal Review: See attached e-mail(s).

Effective Date: 11/1/2025	Version: 1 Supersedes: N/A	Related Documents:

POLICY
DISTRICT

Approved by: Commission	**Regulation:** RCW 42.24.090
Content Owner: Senior Manager of Accounting	**Policy Category:** Financial

FIN-AC-POL-102 – BUSINESS RELATION EVENT EXPENSES

1. Scope

This policy applies to all employees, contractors, and representatives of Grant PUD who engage with external businesses and stakeholders.

2. Purpose

The purpose of this policy is to establish guidelines for business meetings/events that are unique in nature and may not conform to Grant PUD's Travel or Non-Travel Meals Policies involving external businesses and stakeholders. The intent is to ensure consistent, ethical, and effective interactions that align with Grant PUD's values and objectives while reasonably meeting business needs.

3. Definitions

Conflict of Interest: A conflict of interest exists when there is evidence of or the appearance that an employee's personal interests have influenced or may influence Grant PUD transactions or operations, or that these interests take precedence over the interests, goals, and/or mission of Grant PUD.

Documentation: Keep accurate records of all engagements, agreements, and communications (RCW 42.24.080 and 42.24.090).

External business: Vendor or potential vendor.

Mutually Beneficial: Interaction that creates benefit for both Grant PUD and external business partners or stakeholders.

Promotional Hosting: Defined as furnishing customary meals, refreshments, lodging, transportation or any combination of those items in connection with business meetings, social gatherings or ceremonies honoring persons or events that are related to authorized business promotion activities.

Reasonable: Defined as an expense that an average, prudent ratepayer would deem a legitimate use of ratepayer funds and would feel confident justifying to an auditor or in a public forum, such as a newspaper.

Stakeholders: Legislature, customers, organizations or other individuals with established relationship with Grant PUD or the Utility Business.

4. Policy

Under the direction and supervision of the GM/CEO, business relation events that fall outside of Grant PUD's Travel or Non-Travel Meals Policies may be authorized. Events may include business meetings with external businesses or stakeholders as needed to conduct Grant PUD business that is mutually beneficial to all participants. Benefit should be focused on collaboration and relationship building to drive value, culture, and partnerships. This should **not** be construed as Promotional Hosting and will be absent of Conflicts of Interest.

Budget will be set annually and managed by GM/CEO. The budget will be established through the annual budget process and will be based on estimated costs of a set number of necessary events/meetings.

Each event will require approval of the GM/CEO and detailed expense documentation for payment by Grant PUD. Each reimbursement shall include the following:

- Business purpose
- Direct benefit to Grant PUD
- Agenda, including dates and times
- Names, titles and organization of anticipated attendees and their capacity as it relates to Grant PUD business
- Total cost

Expenses for these events will be limited to meals and beverages for both employee and non-employee individuals. Participating employees will not be eligible for per diem as per the Travel and Non-Travel meals policies. If a current contractor/vendor, they will not be eligible to bill Grant PUD for per diem.

Grant PUD employee conduct and participation will comply with Grant PUD's Code of Ethics.

Alcohol may be provided during business relation events where it is culturally appropriate and can facilitate relationship-building. Employees must exercise discretion and ensure that consumption does not impair judgment or professionalism. Beverages will be limited to one per person per event.

Detailed receipts will be submitted as documentation.

5. Risks/Risk Owners

This policy, along with other control mechanisms, is intended to mitigate the following risks:

- Authority Risk
- Integrity Risk
- Reputation Risk
- Litigation Risk
- Performance Risk

- Leadership Risk

Risk Owners are the General Manager/CEO and the Commission.

6. Review/Revision History

Date	Description
11/1/2025	Effective Date

Motion authorizing the General Manager, on behalf of Grant PUD, to reset the delegated authority levels to the authority granted to the General Manager per Resolution 9080 for Contract 430-11920 with Douglas Public Utility District No. 1.

3535

M E M O R A N D U M September 11, 2025

TO: John Mertlich, General Manager/Chief Executive Officer

FROM: Mitch Delabarre, General Counsel/Chief Legal Officer

SUBJECT: 430-11920 Reset Delegated Authority Levels

Purpose: To request Commission approval to reset the delegated authority levels to the authority granted to the General Manager per Resolution 9080 for Contract 430-11920 with Douglas PUD for legal services related to the Columbia River Treaty (CRT).

Discussion: In 2020, Grant PUD, Chelan PUD, and Douglas PUD entered into an agreement to memorialize the Parties' understanding regarding cooperation in pursuit of common objectives and defenses, and the need to preserve the confidentiality of attorney-client communications and work product shared between the Parties to review and assess their common joint defenses. Early 2023, the three parties agreed to share the costs of legal fees, and in 2025, agreed to share fees related to governmental and public affairs support (see Contract History below).

To date, Grant PUD has paid a total of $915,088.42 under this agreement:

- Morgan Lewis $808,421.76 Fees from February 2023 thru June 2025
- Ballard Partners $106,666.66 Fees from December 2024 thru July 2025

Contract History:

Date	Description
2020	Entered into Joint Defense Agreement
Jan/Feb 2023	Douglas PUD engaged Morgan Lewis for legal services on this matter. Grant, Chelan, and Douglas agreed to share the costs of these legal fees. Each party is responsible for 1/3 of the cost.
Jan 2025	Douglas PUD engaged Ballard Partners to assist with governmental and public affairs support on this matter. Each party is responsible for 1/3 of the cost.

Recommendation: Commission approval to reset the delegated authority levels to the authority granted to the General Manager per Resolution 9080 for Contract 430-11920 with Douglas PUD for legal services related to the CRT.

Motion authorizing the General Manager/CEO, on behalf of Grant PUD, to execute and approve transfer of funds in the amount of $15.0M from Electric System Revenue Fund and into the Rate Stabilization section of the Electric System Reserve and Contingency (R&C) Fund with an effective date of October 31, 2025 with a reflection of the updated minimum balance in the R&C Fund to $165.0M.

3536

M E M O R A N D U M **September 8, 2025**

TO: Bonnie Overfield, Chief Financial Officer/Treasurer/VP of Finance
Bonnie Overfield (Sep 11, 2025 08:32:40 PDT)

VIA: Angelina Johnson, Senior Manager of Treasury & FP/Deputy Treasurer Angelina Johnson

FROM: Amy Thompson, Manager of Treasury Operations

SUBJECT: Electric System R&C Fund Transfer, Liquidity, Strategic Financial Metrics Update

Purpose: Request approval from the Commission to transfer funds from the Electric System Revenue Fund into the Rate Stabilization portion of the Electric System Reserve & Contingency (R&C) Fund effective October 31, 2025. This would increase the minimum amount managed in the R&C Fund to $165.0M. Additionally, the Electric System Revenue Fund requires an increase in the minimum amount managed from $25.0M to $50.0M due to the significant increase in Electric System expenditures.

Discussion: The R&C Fund was established by Resolution 4112 in 1982 and provided that the Treasurer/Controller establish and maintain the fund, payments from the fund be authorized by the Commission, and for parameters surrounding deposits be established annually in the District's budget. The current adopted financial parameters as included annually in the budget detail that Electric Working Capital beyond $50.0M may be transferred to the R&C Fund. Per the current financial forecast managed by Treasury, all the strategic financial metrics will be met (Electric System Liquidity and Days Cash On Hand) for year-end 2025 with the transfer of $15.0M from the Electric System Revenue Fund into the R&C Fund.

Justification: The strategic financial metrics will not be met with the current minimum balance maintained for the Electric System Revenue Fund and R&C Funds without the $15.0M transfer. The Days Cash On Hand (≥250 days) strategic financial metrics will fall short in 2026 without a transfer of $15.0M into the R&C Fund.

Financial Justification: If the above recommended transfer is approved, the balance in the R&C Fund for rate stabilization would be $165.0M (current approved target being $150.0). Additionally, the transfer would leave the Electric System Revenue Fund with an estimated remaining balance of $185.0M, allowing for a JLB issuance in Q1 2026 of $120.0M.

Recommendation: To seek authorization from the Commission to 1) transfer $15.0M from the Electric Revenue Fund into the Rate Stabilization portion of the Electric System R&C Fund effective October 31, 2025, 2) recognize the Electric System Revenue Fund to be managed no less than $50.0M, and 3) update the minimum balance maintained in the R&C Fund to $165.0M.

Legal Review: Please see attached email.

For Commission Review 10/15/2025

Motion authorizing the General Manager/CEO, on behalf of Grant PUD, to execute Contract No. 110-13104 proposed 20 year purchased power agreement (PPA) with Royal Slope, LLC ("Royal Slope") for a 260 MW solar project and 260 MW / 1,040 MWh four-hour battery, commencing no earlier than March 31, 2028.

xxxx

M E M O R A N D U M **Date** 10/1/2025

TO: John Mertlich, General Manager

FROM: Mike Bradshaw, Sr. Manager Trading and Commercial Operations

VIA: Jeff Grizzel, SVP Power and Market Operations JG
JG
Rich Flanigan, VP Energy Supply and Markets

SUBJECT: Proposed 20-Year Purchase Power Agreements with Royal Slope Solar LLC, and Royal Slope BESS, LLC

Purpose: To request Commission approval for the General Manger to execute 20-year Purchase Power Agreements ("PPAs") with Royal Slope Solar, LLC (contract #110-13104) for a 260 MW solar project and Royal Slope BESS, LLC (contract #110-13105) for a 260 MW / 1,040 MWh four-hour battery project. Both projects commence no earlier than March 31, 2028.

Discussion: Grant PUD staff recommends entering into PPAs with Royal Slope Solar, LLC and Royal Slope BESS, LLC ("Royal Slope") for the full output of a 260 MW solar project and a co-located 260 MW / 1,040 MWh four-hour battery for 20-year terms beginning no earlier than March 31, 2028. Royal Slope participated in Grant's recent All Source Request For Proposal (RFP). The RFP was performed to help Grant identify resources that will help meet its Integrated Resource Planning needs related to capacity planning for joining the Western Resource Adequacy Program (WRAP) and clean energy needs to help meet Washington state's Clean Energy Transformation Act (CETA).

The Product. Grant will receive 100% of the energy, capacity, storage, environmental attributes and ancillary services from the Royal Slope solar project and battery. The Royal Slope projects are in BPA's Balancing Authority Area and co-located northeast of Wanapum dam, in Grant County. The projects will be interconnected to BPA's Vantage substation and energy output will be delivered to Grant PUD's Rocky Ford substation using BPA transmission.

The Process. In the fall of 2023, Grant issued an All-Source Energy and Capacity Request For Proposal intended to help Grant meet three primary objectives; 1) get a better understanding of a very competitive market for power supply, 2) focus on finding long-term clean energy solutions to meet Grant's growing retail load, and 3) let developers know that Grant was looking for capacity and energy to help meet its Integrated Resource Planning needs.

Grant received a strong response to the RFP with 82 proposals submitted. The RFP team scored these proposals using the following evaluation criteria; 70% based on the economic value, 15% on the risk assessment, and 15% on the strategic fit. From this initial evaluation, the Royal Slope projects scored outside the top quartile, but because other projects initially in the top quartile dropped out, these

projects were identified for further review. During this review, it was determined to move forward into the contracting phase for these projects.

Contract Review: An extensive internal review process was again used to construct the final agreements. There was an internal review by subject matter experts from Finance, Accounting, Dispatch, Control Systems Engineering, Compliance, and Risk. In addition, internal and external legal have reviewed the final contract.

Justification: The proposed PPA helps meet two of Grant's Strategic Pillars; Strategic Pillar #2, Develop and Execute Strategies that help prepare the PUD for the changing electric power utility industry inclusive of the risk considerations and Strategic Pillar #4, Develop an Intentional Demand Strategy. In addition, the Royal Slope projects help Grant in sourcing appropriate and sufficient power to provide reliable service and positions Grant PUD in meeting future clean energy standards outlined in Grant's 2024 Integrated Resource Plan (IRP).

Recommendation: Commission gives approval to the General Manger to execute 20-year Purchase Power Agreements with Royal Slope Solar, LLC (contract 110-13104) and with Royal Slope BESS, LLC (contract 110-13105).

Legal Review: See attached e-mail(s).

Signature: Jeffrey Grizzel (Oct 31 2025 07:45:23 PDT)

Email: Jgrizzel@gcpud.org

Commission Memo for 20-Year PV and Battery PPA with Royal Slope

Final Audit Report 2025-10-03

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"Commission Memo for 20-Year PV and Battery PPA with Royal Slope" History

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[redacted]

ROYAL SLOPE

POWER PURCHASE AGREEMENT

Between

PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY

as Customer

and

ROYAL SLOPE SOLAR, LLC

as Seller

dated as of

[_____], 2025

GRANT COUNTY, WA

Confidential

Table of Contents

Page

Attachments:

POWER PURCHASE AGREEMENT

This POWER PURCHASE AGREEMENT (this "**Agreement**") is made this **[___]** day of **[___]**, 2025 (the "**Contract Date**"), by and between Public Utility District No. 2 Grant County, a public utility district organized under the laws of Washington ("**Customer**") and Royal Slope Solar, LLC, a Delaware limited liability company ("**Seller**"). Customer and Seller are each individually referred to herein as a "**Party**" and collectively as the "**Parties**."

W I T N E S S E T H:

WHEREAS, Seller intends to construct, own, and operate a 260 MW solar generating facility which is co-located with the BESS Project (as defined below), as more particularly described in Exhibit A (the "**Project**"); and

WHEREAS, Seller desires to sell and deliver to Customer, and Customer desires to purchase and receive from Seller, all Project Energy, Generation Attributes, Capacity Attributes, and Ancillary Services associated with the Installed Capacity, in each case pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, the Parties hereto, for good and sufficient consideration, the receipt of which is hereby acknowledged, intending to be legally bound, do hereby agree as follows:

ARTICLE 1
GENERAL TERMS AND CONDITIONS

1.1 ***Definitions***. The capitalized terms in this Agreement shall have the meanings set forth herein, including in the definitions attached and incorporated hereto as Annex I, whether singular or plural or in the present or past tense.

1.2 ***Interpretation***.

(a) Any reference to an agreement or document (including those set forth electronically on an internet web site) or a portion or provision thereof shall be construed as a reference to same as has been, or may be, amended, supplemented or otherwise modified and in effect from time to time;

(b) Any reference to Applicable Law and to terms defined in, and other provisions of, Applicable Law (including those set forth electronically on an internet web site) shall be references to the same (or a successor to the same) as has been, or may be, amended, supplemented or otherwise modified and in effect from time to time during the Term;

(c) Any reference to a Person or entity shall include that Person or entity's successors and permitted assigns;

(d) Any reference to a Governmental Authority shall be construed as including a reference to any Governmental Authority succeeding to all or a portion of its functions and capacities during the Term;

(e) Any reference to a particular Article, Section, Exhibit or Annex shall be a reference to the relevant Article of, Section of, Exhibit to, or Annex to, this Agreement, unless specifically noted otherwise;

(f) The words "herein," "hereafter," "hereunder" and similar words shall be construed as a reference to this Agreement as a whole and not to any particular portion or provision of this Agreement;

(g) Words in the singular may be interpreted as referring to the plural and vice versa, and words denoting natural persons may be interpreted as referring to other types of Persons and vice versa;

(h) All accounting terms not specifically defined herein shall be construed in accordance with generally accepted accounting principles in the United States of America, consistently applied;

(i) References to "dollars"; "$"; "Dollars" or other similar verbiage shall refer to the legal tender of the United States of America;

(j) References to this Agreement shall include a reference to all appendices, annexes, schedules and exhibits hereto, as the same may be amended, modified, supplemented or replaced from time to time;

(k) The masculine shall include the feminine and neuter and vice versa;

(l) Whenever this Agreement refers to a number of days, such number shall refer to the number of calendar days unless Business Days are specified. A requirement that a payment be made (or an obligation be performed or a requirement be satisfied) on or by a day that is not a Business Day shall be construed as a requirement that the payment be made (or obligation be performed or requirement be satisfied) on or by the next following Business Day; and

(m) Whenever the term "include," "includes" or "including" is used herein, such term shall be deemed to be followed by the words "without limitation" and construed as being illustrative and inclusive of but not exhaustive or limited to the items that follow.

ARTICLE 2
TERM; EARLY TERMINATION

2.1 ***Effective Date; Term***. This Agreement shall be effective as of the later of (x) the Contract Date, and (y) the date upon which this Agreement has been executed by both Parties (the "**Effective Date**"). The term of this Agreement (the "**Term**") shall commence on the Effective Date and shall continue until [redacted]. The delivery period for Product shall commence on the Commercial Operation Date and end at the expiration of the Term ("**Delivery Term**").

2.2 ***Purchase and Sale of Product***. In accordance with the terms and conditions of this Agreement, commencing on the Commercial Operation Date and continuing throughout the Term, Seller shall sell and deliver all Products to Customer, and Customer shall purchase and accept from Seller, all of such Products in accordance with the terms of this Agreement.

2.3 ***Certain Early Termination Events***.

(a) Customer shall be entitled to terminate this Agreement in accordance with Section 6.2(d) and Seller shall be entitled to terminate this Agreement pursuant to Section 6.2(a). Neither Party shall have any liability to the other as a result of any such Trade Event Termination or Maximum Contract Rate Termination, and any Credit Support held by Customer shall be promptly returned to Seller.

(b) If, pursuant to Section 3.2, either (x) [redacted] or (y) Seller fails to obtain all Required Permits by the Required Permits Deadline, then, in each case, Seller may, at its discretion, terminate this Agreement, effective upon delivery of written notice to Customer; *provided*, that Seller shall pay Customer the Pre-COD Termination Payment within thirty (30) Days of such termination.

(c) If Seller is unable to obtain financing for the Project, then at any time prior to the Commercial Operation Date, then Seller may, at its discretion, terminate this Agreement, effective upon delivery of written notice to Customer; *provided*, that Seller shall pay Customer the Pre-COD Termination Payment within thirty (30) Days of such termination.

(d) If the Commercial Operation Date has not occurred on or before the date that is [redacted] after the Guaranteed Commercial Operation Date (as extended pursuant to the terms hereof, the "**Outside Commercial Operation Date**"), then Customer may terminate this Agreement, effective upon written notice to Seller; *provided*, if Customer has not terminated the Agreement within [redacted] of the Outside Commercial Operation Date and the Commercial Operation Date still has not occurred, then Seller shall have the right to terminate this Agreement, effective upon written notice to Customer. If either Party terminates this Agreement pursuant to this Section 2.3(d) due to Seller's failure to achieve COD by the Outside Commercial Operation Date, then Seller will pay to Customer within ten (10) Business Days an amount equal to the Pre-COD Termination Payment.

(e) In addition to those events set forth above, if either Party terminates this Agreement prior to the Commercial Operation Date for any reason other than a Customer Event of Default, Change in Tax Law, or event of Force Majeure, then Seller will pay to Customer the Pre-COD Termination Payment within thirty (30) Days of such termination.

(f) As used herein, the "**Pre-COD Termination Payment**" shall be an amount equal to: [redacted]

[redacted]

(g) In the event of a termination pursuant to this Section 2.3, the Parties shall be released and discharged from any obligations arising or accruing hereunder from and after the date of such termination and shall not incur any additional liability to each other as a result of such termination; provided that such termination shall not discharge or relieve either Party from any obligation that, by its terms requires or contemplates performance after such termination event (including, without limitation, payment of any applicable Pre-COD Termination Payment), any obligation which has accrued prior to such termination, any indemnity obligations under Article 16 or the provisions of Article 21 or any liability for fraud, which provisions shall survive any termination of this Agreement.

2.4 ***Right of First Offer***. Prior to the Commercial Operation Date, if this Agreement is terminated by either Party for any reason other than a Customer Event of Default, then, in the event that Seller, at any time prior to the date that is [redacted] after such termination, desires to enter into one or more agreements for the purchase and sale of any Product from the Project with any third party, then Seller shall first provide notice to Customer of Seller's intent to enter into such agreement(s), which notice must include a good faith offer to sell the Products to Customer and include the same price, delivery period, and other material terms that Seller has negotiated with such third party ("**Seller's Offer**"). Customer shall have a period of [redacted] If Customer does not accept Seller's Offer [redacted], then Seller shall have the right to enter into one or more agreements for the purchase or sale of Products from the Project with one or more third parties.

ARTICLE 3
DEVELOPMENT MILESTONES; COMMERCIAL OPERATION DATE

3.1 ***Development and Construction***. Following the Effective Date, Seller shall work diligently and in good faith to: (i) secure all necessary land use rights for the Site and all necessary rights of access and rights of way for Seller to deliver Project Energy to the Delivery Point; (ii) complete all environmental impact studies necessary for the construction, operation, and maintenance of the Project; (iii) acquire all Governmental Approvals (including, but not limited to, the Required Permits) and other necessary approvals for the construction, operation, and maintenance of the Project; (iv) in accordance with Section 3.5, achieve all Milestones set forth in Exhibit E; and (v) achieve a Commercial Operation Date on or before the Guaranteed Commercial Operation Date. Seller will cause the Project to be designed, engineered, constructed, and installed in accordance with Prudent Operating Practices and all Applicable Law.

3.2 ***Government Approvals***. Seller shall be responsible for securing and maintaining, at no cost to Customer, all approvals, permits (including environmental permits), licenses, easements, rights-of-way, releases, and other approvals of any Governmental Authority necessary for the construction, engineering, operation, and maintenance of the Project, and the performance by Seller of its obligations hereunder (the "**Governmental Approvals**"). Such obligations shall include, but shall not be limited to (i) the responsibility to comply with all applicable FERC-approved compliance and reporting responsibilities with respect to the Project required by the NERC or any successor electrical reliability organization; and (ii) the responsibility to qualify all Capacity Attributes in accordance with Applicable Law and the requirements set forth in this Agreement. Seller shall provide Customer with copies of all Required Permits and other material Governmental Approvals promptly following receipt of same. Seller shall use commercially reasonable efforts to obtain all those Governmental Approvals specified in Exhibit F (the "**Required Permits**") for the Project by [redacted] (the "**Required Permits Deadline**") provided, that, Seller shall have the option to extend the Required Permits Deadline by up to [redacted] by delivery of written notice to Customer, if Seller has used commercially reasonable efforts to obtain the Required Permits, but any of the Federal Permits remain outstanding as of the date of Seller's exercise of such option. [redacted]

3.3 ***Project Configuration***. The Project configuration as currently contemplated is described in Exhibit A. Seller shall not materially modify the Project configuration without Customer's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed (it being understood that it shall be reasonable for Customer to withhold such consent if Customer determines that the proposed change by Seller would materially affect the Planned Nameplate Capacity of the Project); provided, that Customer's consent shall not be required for any change to an equipment supplier where such change does not materially modify the Project's configuration. If Seller desires to materially modify the Project configuration, then Seller shall provide Customer with the detail of such proposed modification, including all information and data as may be reasonably necessary for Customer to evaluate such proposal, including with respect to any Project characteristics, equipment suppliers, and technology type that Seller proposes to use in construction of the Project. Any material modification agreed to by the Parties in writing shall be reflected in an amendment to Exhibit A.

3.4 ***Progress Reporting***. Commencing upon the end of the first calendar quarter after the Effective Date, Seller shall submit to Customer, no later than the tenth (10^{th}) Business Day of each calendar quarter, until the Commercial Operation Date is achieved, progress reports in a form reasonably acceptable to Customer containing updates as to development and construction status and schedules, and providing, at a minimum, a safety report and project schedule analysis of actual progress compared to planned progress by major area. In lieu of providing such reports, Seller may provide copies of any progress report or other similar document provided to any Lender regarding construction of the Project.

3.5 ***Milestones***. The Parties agree that time is of the essence with regards to the construction of the Project and, accordingly, Seller shall use commercially reasonable efforts to complete certain milestones for the construction of the Project, as set forth in the Milestone schedule attached hereto as Exhibit E ("**Milestones**"). Within seven (7) Days after completion of each Milestone, Seller shall provide Customer with notice along with accompanying documentation (including reasonably redacted copies of applicable agreements, Governmental Approvals, and certificates) to reasonably demonstrate the achievement of such Milestone.

3.6 ***Commercial Operation Date***. Seller shall use commercially reasonable efforts to (i) achieve the Commercial Operation Date by the Guaranteed Commercial Operation Date of [redacted] and (ii) achieve the Commercial Operation Date by the Outside Commercial Operation Date. In order to achieve the Commercial Operation Date, the Installed Capacity of the Project must equal or exceed [redacted] of the Planned Nameplate Capacity.

3.7 ***Excused Delay***. If Seller's timely achievement of the Commercial Operation Date is impacted by (i) an event of Force Majeure, (ii) delays caused by Customer, including Customer's failure to timely obtain any scheduling and transmission approvals from any Governmental Authority necessary to test and commission the Project, (iii) the failure to obtain any Required Permits, despite Seller's exercise of commercially reasonable efforts to do so, or (iv) an Interconnection Delay (each such event, an "**Excused Delay**"), then, so long as Seller provides to Customer written notice of such Excused Delay on or prior to the Guaranteed Commercial Operation Date, Seller shall be entitled to extend the Guaranteed Commercial Operation Date on a day-for-day basis to the extent of such Excused Delay for a period of up to [redacted] in the aggregate ("**Excused Delay Cure Period**"). Notwithstanding the foregoing, if such Excused Delay can be reasonably attributed to the acts or omissions of the Transmission Provider, then Seller shall be entitled to an additional [redacted] of day-for-day extensions, for a maximum aggregate Excused Delay Cure Period of [redacted].

3.8 ***COD Delay Damages***. If the Commercial Operation Date has not occurred on or before the Guaranteed Commercial Operation Date (as may be extended pursuant to the terms hereof), then, for each day of delay beyond the Guaranteed Commercial Operation Date and until the Commercial Operation Date has been achieved, Seller shall pay Customer daily delay liquidated damages in an amount equal to the product of: (i) [redacted] ("**COD Delay Damages**").

(a) If Seller is liable for any COD Delay Damages under this Section 3.8, then Customer shall deliver to Seller an electronic invoice on a monthly basis detailing any amounts Customer is entitled to receive from Seller as delay damages for the prior calendar month. Not more than twenty (20) Days after receipt of each such invoice, Seller shall pay to Customer, by wire transfer of immediately available funds to an account specified in writing by Customer, or by any other means agreed to by the Parties in writing from time to time, the undisputed amount set forth as due in such invoice.

3.9 ***Installed Capacity Shortfall***. On the Commercial Operation Date, if the Installed Capacity is greater than [redacted] of the Planned Nameplate Capacity, then Seller shall have [redacted] after the Commercial Operation Date to install additional capacity such that the Installed Capacity of the Project is equal to or greater than the Planned Nameplate Capacity. In such case, Seller shall provide to Customer a new Commercial Operation Certificate specifying the new Final Nameplate Capacity for the Project. If, on the date that is [redacted] after the Commercial Operation Date, the Installed Capacity is still less than [redacted] of the Planned Nameplate Capacity, then Seller shall make a one-time payment of liquidated damages to Customer in the amount of [redacted] for each MW that the Installed Capacity is below the Planned Nameplate Capacity. Upon such payment, the Final Nameplate Capacity and other related terms in this Agreement, including the Mechanical Availability Guarantees, shall be adjusted on a *pro rata* basis based on the ratio of the Planned Nameplate Capacity to the Installed Capacity.

ARTICLE 4
PROJECT AND PRODUCT QUALIFICATION

4.1 ***Project Qualification***. Seller shall use commercially reasonable efforts to cause the Project to qualify for all applicable Products available throughout the Term of this Agreement, including complying with all applicable registration and reporting requirements, and executing any and all documents or instruments Seller shall make such filings and take such other actions as Customer may from time-to-time reasonably request in order to preserve and maintain the Products made available to Customer hereunder in accordance with the applicable standards and to otherwise enable Customer to use, sell, and transfer such Products in accordance with market standards. Notwithstanding the foregoing, Seller shall have no obligation to make any physical changes to the Project to provide any additional Products unless Customer agrees in advance and in writing to pay the costs and expenses associated with such physical changes to the Project.

4.2 ***Capacity Attribute Registration***. Seller shall, at Seller's sole cost and expense (subject to the Product Qualification Cost Cap), take all commercially reasonable steps and actions prior to the Commercial Operation Date to ensure that any Capacity Attributes recognized as of the Effective Date are available from the Project and registered in the applicable states and under the applicable OATTs (in such registry(ies) as are reasonably specified in advance by Customer) and transferred to Customer pursuant to this Agreement. Seller shall, at Seller's sole cost and expense, update and maintain such registrations consistent with Applicable Law then in effect. Seller shall use commercially reasonable efforts to provide Customer with any information needed by Customer to register the Project with the WRAP Program in accordance with the applicable rules and protocols thereof. Seller shall register with any other registry for such Capacity Attributes as may be requested by Customer from time to time, at Customer's sole cost and expense, subject to the Product Qualification Cost Cap.

4.3 ***Generation Attribute Registration***. Seller shall, at Seller's sole cost and expense, subject to the Product Qualification Cost Cap, take all necessary steps and actions prior to the Commercial Operation Date to allow the Generation Attributes that will be transferred to Customer pursuant to this Agreement to be tracked in WREGIS. Seller shall register the Project in WREGIS as an eligible renewable resource for Washington, and, if the Applicable Law then in effect so

provides, for any other state reasonably requested by Customer during the Term. Commencing on the Commercial Operation Date, and continuing through the end of the Term, Seller shall, at Seller's sole cost and expense (subject to the Product Qualification Cost Cap), comply with all applicable WREGIS operating rules and maintain its registration in WREGIS for the Project.

4.4 ***Product Qualification Cost Cap***. In the event Seller's reasonable, actual out-of-pocket costs and expenses which are (1) incurred to (i) qualify products or attributes not existing as of the Effective Date, and (ii) comply with any change in Applicable Law related to Product qualification arising after the Effective Date (including, but not limited to, changes to the WRAP Program requirements and changes implemented by WREGIS), and (2) reasonably necessary to qualify or deliver such Products to Customer (such costs, "**Product Qualification Costs**") exceed [redacted] (the "**Product Qualification Cost Cap**"), then Customer shall reimburse Seller for all such Product Qualification Costs in excess of the Product Qualification Cost Cap.

ARTICLE 5
SALE, PURCHASE, AND DELIVERY OF PRODUCT

5.1 ***Test Energy***. If Seller determines that the Project is capable of producing Test Energy prior to the Commercial Operation Date, then Seller shall deliver, and Customer shall purchase, all Test Energy at a price equal to the lesser of [redacted] For the avoidance of doubt, Seller shall be entitled to retain all Generation Attributes and Capacity Attributes associated with such Test Energy, to the extent applicable. For purposes of this provision, "**Test Energy**" means all Project Energy generated by the Project prior to the Commercial Operation Date and delivered by Seller to Customer at the Delivery Point and the "**Test Energy Period**" shall refer to the period between the date Seller first delivers Test Energy to the Delivery Point and the Commercial Operation Date.

5.2 ***Purchase and Sale of Products***. At all times during the Delivery Term, Seller shall sell, transfer, and deliver to Customer, and Customer shall purchase and receive from Seller, all Products.

5.3 ***Title and Risk of Loss***. Title and risk of loss for the Project Energy shall transfer from Seller to Customer at the Delivery Point. Customer shall be responsible for any damage or injury caused thereby after the Project Energy is delivered to the Delivery Point. Title and risk of loss with respect to the Capacity Attributes shall pass from Seller to Customer when the same first come into existence. For the avoidance of doubt, the Parties agree that the transfer of title to Capacity Attributes occurs in the state of Washington or any other state in which such Capacity Attributes are registered (to the extent applicable).

5.4 ***Delivery of Generation Attributes***. Throughout the Delivery Term, Seller shall transfer to Customer, and Customer shall accept from Seller, all Generation Attributes associated with or produced by the Project. For the avoidance of doubt, all Generation Attributes delivered to Customer hereunder shall be deemed to be "bundled" with the associated Project Energy delivered to Customer. Notwithstanding the forgoing, if the Project Energy output of the Project

is curtailed for any reason whatsoever, then Seller shall not be obligated to transfer any Generation Attributes associated with any curtailed Project Energy output.

(a) At the time of transfer of any Generation Attributes as provided herein, such Generation Attributes shall not have been sold by Seller to any other Person or used by Seller to meet compliance requirements of any other regulatory or voluntary renewable energy program or standard, including any greenhouse gas reduction requirements.

(b) Notwithstanding anything to the contrary contained herein, if Customer fails to establish and maintain any Customer accounts or take any other action necessary to receive Generation Attributes from Seller, then Seller shall not be liable for any delay in transferring Generation Attributes to Seller hereunder until Customer has taken all actions necessary to receive Generation Attributes.

(c) Title and risk of loss to Generation Attributes shall transfer from Seller to Customer at such time as Seller properly initiates the electronic transfer of such Generation Attributes to Customer's account, regardless of when and whether or not Customer electronically (or otherwise) accepts such transfer.

(d) Seller shall be responsible for all fees, charges, and costs assessed against Seller associated with transferring such Generation Attributes to Customer.

(e) ***Transfer of Capacity Attributes***. Customer shall, at all times during the Term hereof, own, and have the right to claim for its own benefit and account, all Capacity Attributes associated with the Project. If and to the extent that the Capacity Attributes cannot be transferred to Customer, then Seller shall arrange for an alternative mutually acceptable method of assigning to Customer all ownership rights, interest, and authority necessary for Customer to register, hold, and manage such Capacity Attributes in Customer's own name and for Customer's account.

(f) Unless required by Applicable Law (in which case Seller shall notify Customer of such requirement a reasonable time prior to compliance therewith), Seller shall not report to any Person that the Capacity Attributes belong to Seller or to any Person other than Customer, and Customer may report under any such program that the Capacity Attributes belong to Customer. Seller shall maintain and make available to Customer all statements and records reasonably required to properly document compliance with Seller's obligations to Customer with respect to the Capacity Attributes.

(g) Seller shall provide such additional documents and instruments as are reasonably requested by Customer to effect or evidence transfer of the Capacity Attributes to Customer or its designees. Each Party shall promptly give to the other Party copies of all documents it submits to any Governmental Authority to effectuate or record any such transfers.

(h) Title and risk of loss with respect to the Capacity Attributes shall pass from Seller to Customer when the same first come into existence. For the avoidance of doubt, the Parties agree that the transfer of title to Capacity Attributes occurs in the state of

Washington or any other state in which such Capacity Attributes are registered (to the extent applicable).

5.5 ***Product Revenues***. If, for any reason, any Product cannot be transferred or delivered to Customer as set forth herein, and if Seller is able to sell such Product to another Person, then Customer shall be entitled to any net revenues received by Seller (and other economic benefits, if any) associated with such Product, after deduction of all reasonable, actual, out-of-pocket costs of Seller necessary to provide such Products that were not previously reimbursed by Customer.

5.6 ***Incentives***. Notwithstanding anything to the contrary in this Agreement, the Products transferred hereunder shall not include, and Seller shall be entitled to retain and claim for its own benefit and account, all Incentives relating in any way to this Agreement or the Project. Customer acknowledges that Seller has the right to claim Incentives for its own account, and to convey or sell Incentives to any Person other than Customer at any rate and upon any terms and conditions that Seller may determine in its sole discretion without liability to Customer hereunder. Customer shall have no claim, right, or interest in such Incentives or in any amount that Seller realizes from the sale of such Incentives.

5.7 ***Economic Interruption***. Customer may instruct Seller to curtail or reduce the generation of Project Energy by the amount and for the period of time set forth in such instruction (such instruction, a "**Customer-Directed Curtailment**"); provided, however, that Customer shall be required to compensate Seller at the Contract Rate for all Project Energy that would have been generated by the Project and delivered to Seller but that is not generated by the Project due to such Customer-Directed Curtailment.

ARTICLE 6
MONTHLY PAYMENT; CONTRACT RATE ADJUSTMENTS

6.1 ***Monthly Payment***. On a monthly basis during the Delivery Term, Customer shall pay Seller a monthly payment for all Product delivered to the Delivery Point and transferred hereunder (each, a "**Monthly Payment**"). The Monthly Payment shall be calculated for each calendar month during the Delivery Term by multiplying the Project Energy for such calendar month by the Contract Rate.

(a) Full Compensation. The Monthly Payment constitutes the full compensation due to Seller for the Product. For the sake of clarity, except as provided herein with respect to certain taxes, as between the Parties, Seller shall be responsible for any and all costs or charges imposed on or allocated to Seller or the Project by any Governmental Authority or Transmission Provider (including any costs or charges allocated to Seller or the Project under any OATT and associated with the Product) arising prior to the Delivery Point, and Customer shall be responsible for any and all costs or charges imposed on or allocated to the Products by any Governmental Authority or Transmission Provider (including any costs or charges allocated to Seller or the Project under any OATT and associated with the Product) arising at and after the Delivery Point.

6.2 ***Contract Rate Adjustments***.

(a) Trade Events. Upon the occurrence of a Trade Event, Seller shall promptly provide written notice thereof to Customer (a "**Trade Event Notice**"). The Trade Event Notice shall contain a summary of the impact of the Trade Event on the Project and a certification from an officer of Seller (the "**Trade Event Certification**") of the anticipated economic impact and increased cost (in dollars) of the Trade Event on the Project (the "**Trade Event Certified Costs**"). To the extent not reasonably ascertainable at the time the Trade Event Notice is delivered, Seller shall promptly provide a Trade Event Certification when the Trade Event Certified Costs are reasonably ascertainable. Upon delivery of a Trade Event Certification, and subject to the limitations set forth in Sections 6.2(a)(ii) and 6.2(d), the Contract Rate shall be automatically adjusted pursuant to the following:

(i) If the aggregate Trade Event Certified Costs over the Term are [redacted] the Contract Rate shall be automatically increased at a rate of [redacted] provided, in no event shall the Contract Rate be increased by more than [redacted] in the aggregate over the Term.

(ii) If the aggregate Trade Event Certified Costs over the Term are [redacted] (the "**Trade Event Cost Cap**"), the Contract Rate shall no longer be automatically increased for any additional Trade Event Certified Costs in excess of the Trade Event Cost Cap, and the Parties shall negotiate in good faith to find a mutually agreeable allocation of costs such that Seller can comply with its obligations under this Agreement. If the Parties are unable to reach a resolution within forty five (45) Days of Seller's delivery of the applicable Trade Event Notice, then Seller shall have the right to terminate this Agreement pursuant to Section 2.3(a) (such event, a "**Trade Event Termination**"), effective upon delivery of written notice to Customer. Neither Party shall have any liability to the other as a result of a Trade Event Termination.

Within [redacted], Seller will by notice to Customer provide reasonable documentation demonstrating that the Contract Rate increase and the Trade Event Certified Costs claimed in accordance with this Section 6.2(a) were actually incurred by Seller, including, if applicable, receipts or similar documentation procured from suppliers and contractors. To the extent the Trade Event Certified Costs actually incurred by Seller in constructing the Project were less than reflected in Seller's Trade Event Notice(s) provided in accordance with this Section 6.2(a), then effective as of the Commercial Operation Date, the Contract Rate will be adjusted in accordance with the calculation set forth in Section 6.2(a) to reflect the Trade Event Certified Costs actually incurred, except in no event will the Contract Rate be reduced below the original Contract Rate stated herein.

(b) Domestic Content. [redacted] If, despite its exercise of commercially reasonable efforts to do so, Seller is unable to cause the Project to qualify for Domestic Content Tax Credits as a result of a change in Applicable Law occurring after the Effective Date (such change, a "**DC Change Event**"), Seller shall promptly provide written notice thereof to Customer (a "**DC Event Notice**"). The DC Event Notice shall contain a certification from an officer of Seller certifying that the Project will not qualify for Domestic Content Tax Credits (the "**DC Event Certification**"). Upon delivery of the DC Event Certification, the Contract Rate shall be automatically increased, without further action by either Party, [redacted] subject to the limitation set forth in Section 6.2(d).

(c) Energy Community. Seller shall use commercially reasonable efforts to cause the Project to qualify for the Energy Community Bonus Credit. If Seller is able to cause the Project to qualify for the Energy Community Bonus Credit, Seller shall promptly provide written notice thereof to Customer (an "**EC Event Notice**"). The EC Event Notice shall contain a certification from an officer of Seller certifying that the Project has qualified for the Energy Community Bonus Credit (the "**EC Event Certification**"). Upon delivery of the EC Event Certification, the Contract Rate shall be automatically decreased, without further action by either Party, [redacted] subject to the limitation set forth in Section 6.2(d).

(d) Maximum Contract Rate Increases. Notwithstanding anything to the contrary herein, in the event that any increases or decreases to the Contract Rate pursuant to the terms of this Agreement, collectively, in the aggregate, cause the adjusted Contract Rate to exceed [redacted] as of the Effective Date (the "**Maximum Contract Rate**"), then Customer shall have the right to terminate this Agreement pursuant to Section 2.3(a) (such event, a "**Maximum Contract Rate Termination**"); provided, however, that Customer shall have no right to terminate this Agreement if Seller agrees to waive such increases such that the Contract Rate is at or below the Maximum Contract Rate. In determining whether the Maximum Contract Rate has been exceeded, any Contract Rate adjustments voluntarily agreed to by the Parties in connection with any Compliance Costs which are the responsibility of Customer pursuant to Section 20.2 shall not be included for purposes of determining whether the adjusted Contract Rate exceeds the Maximum Contract Rate. Neither Party shall have any liability to the other as a result of a Maximum Contract Rate Termination.

ARTICLE 7
BILLING AND PAYMENT

7.1 ***Billing and Payment***. Seller shall calculate the amount of the Monthly Payment. No later than the tenth (10th) Day of each calendar month, Seller shall deliver to Customer an electronic invoice showing: (i) the amount of Monthly Payment for the preceding calendar month

(pro-rated as appropriate in the case of the first month or the final month of the Term), and (ii) any other amounts owed by one Party to the other Party pursuant to this Agreement. With respect to each invoice, by the later of (x) ten (10) Days after receipt of such invoice, or (y) the twentieth (20^{th}) Day of the month in which the invoice was received, Customer shall pay to Seller, by wire transfer of immediately available funds to an account specified in writing by Seller or by any other means agreed to by the Parties in writing from time to time, the undisputed amount set forth as due in such invoice.

(a) Statements or invoices shall be sent to Customer by electronic mail to the electronic mail address designated in Section 22.4. Customer may change the electronic mail address by providing written notice to Seller.

(b) Notwithstanding anything herein to the contrary, to the extent that at the end of the Term, after offsetting all amounts owed by one Party to the other Party, one Party owes any amount to the other Party, such Party shall pay such amount to the other Party within thirty (30) Days after the expiration of the Term.

7.2 ***Netting of Amounts Owed***. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other under this Agreement on the same date through netting, in which case all amounts owed by each Party to the other Party for the Product delivered during the monthly billing period under this Agreement, including any related damages, interest, and other payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

7.3 ***Late Payments***. Any payment not made by the date required by this Agreement shall bear interest from the date on which such payment was required to have been made through and including the date such payment is actually received at an annual rate equal to the Prime Rate then in effect plus [redacted] but in no event shall such interest exceed the maximum interest rate permitted by Applicable Law ("**Late Payment Rate**").

7.4 ***Invoice Disputes***. Within two (2) years after receipt of any invoice, either Party may provide written notice to the other Party of any alleged error therein and the Parties shall meet, by telephone conference call or otherwise within ten (10) Days of the other Party's receipt of such notice, for the purpose of attempting to resolve the dispute. If either Party in good faith disputes any portion of the charges contained in an invoice, the paying Party will pay the undisputed portion and may withhold the disputed portion of the invoice in accordance with Section 22.15. If the Parties are unable to resolve the dispute within thirty (30) Days after such initial meeting, then either Party may proceed to seek any remedy that may be available to such Party at law or in equity.

(a) To the extent that they are found to be due and owing to Seller, any disputed portions of Seller's invoice withheld by Customer shall be due and payable no later than ten (10) Days after resolution of the dispute. Such amount shall bear interest from the date on which the undisputed portion payment was made by Customer through and including the date that final payment is made at an annual rate equal to the Late Payment Rate.

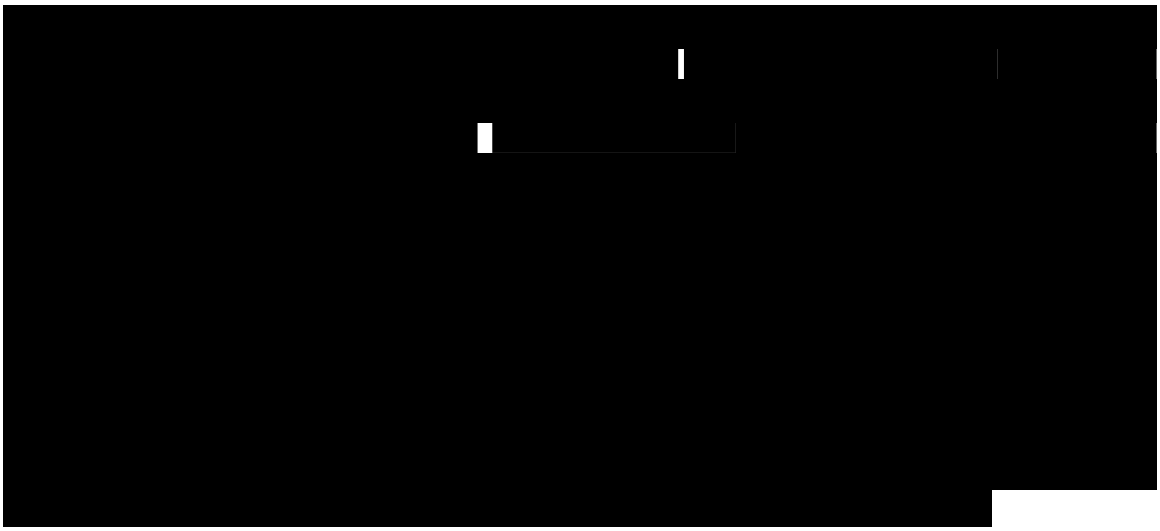
(b) If, as a result of a Dispute settled in favor of Customer, a refund is owed to Customer, then the amount of the overpayment shall bear interest from the date on which such payment was made by Customer through and including the date that the overpayment is refunded by Seller at an annual rate equal to the Late Payment Rate.

ARTICLE 8
PROJECT PURCHASE OPTION

8.1 ***Grant of Option***. In consideration of the promises and mutual representations, warranties, covenants and agreements in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller hereby grants to Customer an option (the "**Purchase Option**"), to acquire all tangible and intangible assets comprising the Project on an as-is-where-is basis (collectively, the "**Project Assets**") during the period beginning on the date that is [redacted] (the "**Option Period**"), which may be exercised by Customer by delivery to Seller of a written, unconditional, and irrevocable notice exercising the Purchase Option (an "**Exercise Notice**"); provided, that if Customer does not deliver an Exercise Notice to Seller within the Option Period, then Customer's right to exercise such Purchase Option shall automatically terminate after the expiration of the Option Period. Notwithstanding the foregoing, the Parties hereto acknowledge that Customer's right to exercise its Purchase Option is conditioned upon Customer purchasing both (1) the Project, pursuant to the terms set forth in this Section 8.1, and (2) the BESS Project, pursuant to the terms set forth in the BESS ESA.

8.2 ***Purchase Price***. [redacted]

(a) [redacted]



8.3 ***Exercise of Option***. Upon Customer's delivery of an Exercise Notice to Seller (such date, the "**Exercise Date**"), Customer shall have a period of [redacted] after the Exercise Date to conduct diligence on Seller and the Project Assets (the "**Diligence Period**"). Within s[redacted] of the Exercise Date, Seller shall prepare and deliver to Customer an asset purchase and sale agreement containing customary representations, warranties, and covenants with respect to an as-is-where-is sale and other terms and conditions mutually acceptable to the Parties. Customer shall thereafter have until the end of the Diligence Period in which review and execute the asset purchase and sale agreement; *provided*, the Diligence Period shall be extended on a day-for-day basis to the extent that Independent Valuators have not completed their calculation of Fair Market Value within [redacted] following the Exercise Date.

8.4 ***Closing***. The Parties shall use commercially reasonable efforts, and shall work together in good faith, to close of the sale of the Project Assets within thirty (30) Days after the expiration of the Delivery Term (or later, to the extent reasonably necessary to obtain any required third party and/or governmental consents), and the sale shall include customary representations and warranties, including representations and warranties related to authority, due execution, ownership, and the ability of the Seller to sell such Project Assets free and clear of any liens or other encumbrances.

ARTICLE 9
CREDIT SUPPORT

9.1 ***Development Security***. Within thirty (30) Days of the Effective Date, Seller shall post Credit Support for the benefit of Customer in an amount equal to [redacted] of Planned Nameplate Capacity in the form of cash, Surety Bond, or Letter of Credit (the "**Initial Development Security**"). Upon the later of (x) [redacted] Seller shall post additional or replacement Credit Support in the form of cash, Surety Bond, or Letter of Credit such that the total amount of Credit Support then posted for the benefit of Customer is equal to [redacted] of Planned Nameplate Capacity (the "**Secondary Development Security**"). The Development Security shall in no event be subject to replenishment. Seller shall maintain the Development Security in full force and effect until the earlier of (a) Seller's delivery of the

Performance Security, or (b) sixty (60) Days after the early termination of this Agreement, after which Customer shall return the Development Security to Seller, less any amounts drawn thereon in accordance with this Agreement.

9.2 ***Performance Security***. On or prior to the Commercial Operation Date, Seller shall post Credit Support for the benefit of Customer in an amount equal to [redacted] per MW of Final Nameplate Capacity in the form of cash, Surety Bond, or Letter of Credit (the "**Performance Security**"). Seller shall maintain the Performance Security in full force and effect, and Seller shall within ten (10) Business Days after any draw thereon replenish the Performance Security in the event Customer collects or draws down any portion of the Performance Security in accordance with the terms of this Agreement, until: (i) this Agreement has been terminated or has expired in accordance with its terms; and (ii) all payment and performance obligations of Seller then due and payable under this Agreement have been paid or performed in full. Following the occurrence of both (a) and (b), Customer shall promptly return to Seller the Performance Security, less any amounts drawn thereon in accordance with this Agreement.

9.3 ***Use of Credit Support***. Customer shall be entitled to draw upon and/or be paid from any Credit Support provided by Seller for any obligation of Seller arising under this Agreement that is not paid when due (subject to any applicable cure periods). Following the end of the Term, or any termination of this Agreement, and provided that all obligations of Seller under this Agreement or arising out of any expiration or earlier termination thereof have been satisfied in full, including with respect to all outstanding claims of Customer, the Credit Support provided under this Article 9 shall be released to Seller within fifteen (15) Business Days.

ARTICLE 10
TRANSMISSION AND INTERCONNECTION

10.1 ***Project Interconnection***. Seller shall be responsible for all work and requirements necessary to interconnect the Project to the Delivery Point under the Interconnection Agreement. Seller shall be responsible, at Seller's sole cost, for putting into place all required metering, telemetry, communication systems, and other technical requirements under the Interconnection Agreement.

(a) The Parties acknowledge that ownership and use of the Shared Facilities may be subject to a co-tenancy or similar sharing agreement (collectively, "**Shared Facilities Agreement(s)**"), under which Shared Facilities Agreements an Affiliate of Seller, or a reasonably experienced third party, may act as a manager on behalf of Seller and the Other Seller(s). Seller shall ensure that, from and after the Commercial Operation Date, Seller shall have sufficient interconnection capacity and rights under the Interconnection Agreement and the Shared Facilities Agreement(s), if any, to interconnect the Project and fulfill its obligations under this Agreement.

10.2 ***Project Transmission***. Seller shall be responsible for obtaining all transmission service agreements necessary to deliver Energy from and after the Delivery Point to the Transmission Point of Receipt in an amount equal to the Planned Nameplate Capacity. On or prior to the Commercial Operation Date, Seller shall assign to Customer all applicable transmission

service agreements, and upon such assignment, Customer shall be solely responsible for all costs, liabilities, and charges arising thereunder, including any charges for transmission or wheeling services, Ancillary Services, control area services, congestion charges, location marginal pricing differentials, transaction charges, line losses occurring after the Delivery Point, and any other costs or charges levied by the Balancing Authority ("**BPA Charges**"). Customer shall reasonably cooperate in effectuating any such assignments.

ARTICLE 11
PROJECT OPERATIONS

11.1 ***Standard of Care***. During the Term, the Project shall be operated and maintained by Seller or its designee in accordance with Prudent Operating Practices, Applicable Law, this Agreement and the Interconnection Agreement. The cost of such operation and maintenance is included in the Contract Rate, and Customer shall have no responsibility for any such costs under any circumstances whatsoever. Seller shall obtain all certifications, permits, licenses, insurance and approvals necessary to operate and maintain the Project and to perform its obligations hereunder.

11.2 ***Operating Procedures***. As soon as reasonably practicable, and in any event no later than ninety (90) Days prior to the expected Commercial Operation Date, Seller shall, at its discretion, develop written operating procedures for the Project and submit such procedures to Customer (the "**Operating Procedures**"). The final Operating Procedures may be amended from time to time at Seller's reasonable discretion, effective upon delivery of written notice to Customer indicating such changes to the Operating Procedures. The Parties agree that the Operating Procedures will cover the protocol under which the Parties will perform their respective obligations under this Agreement and will include, but will not be limited to, procedures concerning the following: (i) the method of day-to-day communications and reporting; (ii) key personnel lists for Seller and Customer; (iii) reasonable coordination regarding the timing of scheduled maintenance and Planned Outages; (iv) reporting of scheduled maintenance, Planned Outages, and Forced Outages of the Project; and (v) ongoing reporting of projected capacity reductions due to Planned Outages, Forced Outages, and any other curtailments reasonably foreseeable by Seller.

11.3 ***Planned Outages***. On or prior to the Commercial Operation Date, and at least sixty (60) Days prior to the start of each Contract Year thereafter, Seller will provide Customer a non-binding Planned Outage schedule for the forthcoming Contract Year. Seller will not intentionally schedule any non-emergency maintenance that reduces the energy generation capability of the Project, unless (i) such Outage is required to avoid damage to the Project, (ii) such maintenance is necessary to maintain equipment warranties, (iii) such Outage is required in accordance with Prudent Operating Practices, or (iv) the Parties agree otherwise in writing. Seller will use commercially reasonable efforts to schedule Planned Outage at night and/or in low value months. Seller shall be excused from providing Products during any Planned Outage.

11.4 ***Outage Notice***. Seller shall notify Customer with as much advance notice as practicable of any proposed or necessary Outages, including Planned Outages and any unplanned Outages. The Parties shall work to plan such Outage to mutually accommodate, as practicable, the reasonable requirements of Seller and service obligations of Customer; provided, that Customer's requirements shall not unduly prejudice the operation and maintenance of the Project.

11.5 ***Station Service***. Seller shall be responsible for arranging and obtaining from the applicable local retail electric service provider, at Seller's sole cost and expense, all Station Service required for the operation of the Project.

ARTICLE 12
METERING

12.1 ***Metering Equipment***.

(a) Seller shall provide and maintain, at its cost, the following: (i) appropriate Meters and associated measuring, recording, and communication equipment that adhere to all applicable Transmission Provider's standards and requirements for dispatchable intermittent renewable resources; and (ii) appropriate Meters, metering accuracy instruments, and associated measuring and recording equipment that adhere to all applicable CAISO SQMD, National Electrical Manufacturers Association, and American National Standards Institute standards that are necessary to permit an accurate determination of the quantities of the hourly amount of Project Energy delivered to the Delivery Point.

(b) Seller shall exercise reasonable care in the maintenance and operation of any such Meters and equipment so as to assure to the maximum extent reasonably practicable an accurate determination of the quantities of the hourly (in five (5) minute intervals) Project Energy. Seller's Primary Meter shall be located at the Delivery Point or on Seller's side of the Delivery Point. Except as provided in Section 12.2, Seller's Primary Meter shall be used for quantity measurements under this Agreement.

(c) Seller may install and operate at the Project check meters to measure Project Energy ("**Seller's Check Meters**").

(d) The BESS Project shall have a separate revenue meter from the Meters hereunder.

12.2 ***Measurement of Project Energy***. Readings of Seller's Primary Meter shall be conclusive as to the amount of Project Energy delivered to the Delivery Point; *provided, however*, that in the event, and for so long as, Seller's Primary Meter is out of service or is determined, pursuant to Section 12.3, to be registering inaccurately, measurement of Project Energy delivered to the Delivery Point shall be determined by:

(a) Seller's Check Meter, if installed; or

(b) In the event that Seller's Check Meter is not installed, by making a mathematical calculation of the Project Energy delivered to the Delivery Point based on the actual transmission and availability data during such period over which Seller's Primary Meter was out of service or registering inaccurately; or

(c) If: (i) Seller's Check Meter is not installed, is out of service or is determined pursuant to Section 12.3 to be registering inaccurately; and (ii) the Parties reasonably determine that the mathematical calculation of the Project Energy delivered to the Delivery

Point based on the actual transmission and availability data is not reliable as to the period over which Seller's Primary Meter was out of service or registering inaccurately, then the Parties shall promptly meet and negotiate in good faith a method for determining Project Energy that is fair and reasonable in the circumstances.

12.3 ***Testing and Correction***. The accuracy of Seller's Primary Meter and Seller's Check Meter, if installed, shall be tested and verified by Seller regularly, but in any event no less than every two (2) years. Except as set forth herein, Seller shall be responsible for all costs, including inspection and testing costs, in connection with Seller's Primary Meter and Seller's Check Meter and such cost is included in the Contract Rate.

(a) Each Meter shall be accurate within a one-half percent (0.5%) variance.

(b) If, for any reason at any time during the Term, either Party disputes a Meter's accuracy or condition, then: (i) the Party disputing the Meter's accuracy shall notify the other Party in writing; and (ii) the Party receiving such notice shall, within five (5) Days after receiving such notice, advise the other Party in writing as to its position concerning the Meter's accuracy and reasons for taking such position. If the Parties mutually and reasonably determine that the Meter is registering outside the one-half percent (0.5%) variance provided for in paragraph (a) above, then such Meter shall be deemed to be registering inaccurately for purposes of Section 12.2.

(c) If, within fifteen (15) Days after receipt of the notice required by clause (b) above with respect to a given Meter, the Parties are unable to mutually agree, through reasonable negotiations, on the accuracy or condition of such Meter, then either Party may submit such Dispute to an unaffiliated third-party certified meter testing company mutually acceptable to the Parties to test the Meter, and Seller shall provide such third party reasonable access to the Project for purposes of testing such Meter. Following the third-party testing of a Meter, should such Meter be found (in a report distributed to both Parties) to be registering within the permitted one-half percent (0.5%) variance, then the disputing Party shall bear the cost of inspection and such Meter shall be deemed accurate for the purposes of calculating the Project Energy. If such Meter is found (in a report distributed to both Parties) to be registering outside the permitted one-half percent (0.5%) variance, the non-disputing Party shall bear the cost of inspection and such Meter shall be deemed not accurate for the purpose of calculating the Project Energy.

(d) Any repair or replacement of a Meter owned by Seller shall be made at the expense of Seller as soon as practicable, based on the third-party testing company's report. Any repair or replacement of a Meter owned by Customer shall be made at the expense of Customer as soon as practicable, based on the third-party testing company's report.

(e) If, upon testing, any of the Meters used to determine the amount of Project Energy is found to be in error by more than the permitted one-half percent (0.5%) variance, the quantity of Project Energy measured since the previous test of such Meter shall be adjusted to correspond to the corrected measurements. If the difference of the payments actually made by Customer minus the adjusted payment is a positive number, then Seller shall credit the difference, without interest, to Customer on the next invoice issued by

Seller. If the difference is a negative number, then Customer shall pay the difference, without interest, to Seller on the next invoice issued by Seller.

(f) Customer or its agent shall have the right to be present whenever Seller changes, repairs, inspects, tests, calibrates, or adjusts any of Seller's equipment used in measuring or checking the measurement of the amount of Energy delivered to the Delivery Point. Seller shall give at least two (2) weeks' notice to Customer in advance of calibrating the Meters, and three (3) Days' notice to Customer in advance of taking other action that would materially affect the accuracy of the Meter unless Prudent Operating Practices necessitate executing such action upon shorter notice or unless otherwise mutually agreed by Seller and Customer. The records from the measuring equipment shall remain the property of Seller, but, upon request, Seller shall submit to Customer its records and charts, together with calculations therefrom, for inspection, verification and copying, subject to return within ten (10) Days after receipt thereof. Seller agrees to retain such records for not less than [redacted] after the expiration or termination of this Agreement.

12.4 ***Meter Data and Records***. Seller shall provide Customer a report on the Day immediately following the Day that such data becomes available to Seller, indicating Seller's hourly delivery of Energy to the Delivery Point and fifteen-minute interval data for the prior Day and, if the Parties participate in the Energy Imbalance Market, Seller's five-minute interval data. Seller's report of Energy delivery shall be sent by either: (i) a file attached to an e-mail sent to Customer; (ii) a secure FTP site to which Customer is granted access; or (iii) other method mutually acceptable to the Parties. Such file shall use comma separated value (CSV) format, or such other mutually acceptable format.

12.5 ***Transmission Data***. Measuring equipment is installed at the Project that has the capability of measuring and recording transmission data twenty-four (24) hours per day. Seller shall provide Customer real time access to Seller's historian, which contains the data from the SCADA System. The method by which Seller provides transmission data to Customer may be amended by mutual agreement of the Parties from time to time. For clarity, Seller's obligation to maintain the data referenced in this Section 12.5 shall be subject to the recordkeeping and audit provisions contained in this Agreement.

ARTICLE 13
SCHEDULING AND FORECASTING

13.1 ***Scheduling and Forecasting***. Seller shall comply with all scheduling and forecasting responsibilities for which it is responsible as a generator within the Balancing Authority area, including any and all requirements for which Seller is responsible for as a the owner of a generating facility within organized or centralized markets in which the Balancing Authority is a member, such as the Energy Imbalance Market, the Southwest Power Pool Markets Plus market, or any future market of which the Balancing Authority may become a member. To the extent allowed by Balancing Authority policies, business practices, tariffs, and market rules, Customer will: (i) assume such responsibilities and act as scheduling entity for the Project during the Test Energy Period and the Delivery Term; and (ii) schedule the forecasted Project Energy from the Balancing Authority area in accordance with the Balancing Authority's policies, business practices, tariffs, and market rules. Seller will provide real-time forecasts or data reasonably

required by Customer or Customer's designated agent for the purposes of minimizing Applicable Market Penalties and to facilitate scheduling. Prior to the Commercial Operation Date, each Party shall be responsible for obtaining and maintaining all scheduling and transmission approvals from any Governmental Authority required to be obtained by such Party in their respective roles, in each case, necessary to test and commission the Project.

13.2 ***Costs and Penalties***. Seller will be responsible for paying all costs, penalties, and charges associated with delivering the Project Energy to the Delivery Point, including all Applicable Market Penalties, and any other costs (other than BPA Charges pursuant to Section 10.2), penalties, and charges, in each case, that are incurred due to a breach by Seller of its obligations under this Agreement; provided, that, if any costs, penalties or charges (including Applicable Market Penalties) are incurred due to Customer's failure to comply with its obligations, then such costs, penalties, or charges will be the responsibility of Customer.

(a) Any costs, penalties or charges (including Applicable Market Penalties and BPA Charges) that are incurred due to Seller's failure to cause the Project to follow dispatch signals from BPA, including any failure to comply penalty charge and deviation charges, penalties or charges will be the responsibility of Seller unless such failure was caused by acts or omissions of Customer.

13.3 ***Market Structure***. The generation forecasting and delivery obligations of Seller (to and at the Delivery Point) and the scheduling and transmission obligations of Customer (from and after the Delivery Point) reflect the market structure under which the Project will operate as of the Commercial Operation Date. If (i) there are material market structure changes during the Term that prevent Seller from meeting its obligation to deliver Project Energy to the Delivery Point, or that prevent Customer from meeting its scheduling and transmission obligations from and after the Delivery Point, or (ii) the Transmission Provider or Customer joins a regional transmission organization or independent system operator structure during the Term, then the Parties will use commercially reasonable efforts to amend this Agreement to enable Seller and Customer to meet such scheduling, delivery, and transmission obligations within the new market structure and in a manner that (A) maintains the existing allocation of scheduling, delivery, and transmission obligations between Seller and Customer under this Agreement, or to enable the Transmission Provider or Customer, as applicable, to participate in such regional transmission organization or independent system operator structure, subject in all cases to the Product Qualification Cost Cap; and (B) preserves the economic terms and conditions of this Agreement (including economic benefits, risk allocation, costs, and liabilities).

13.4 ***Seller's Assistance***. Seller covenants to provide commercially reasonable cooperation to Customer at Customer's request in supporting efforts by Customer to oppose any action of any regulatory body having jurisdiction thereover to direct the material modification of the terms and conditions of this Agreement.

ARTICLE 14
MECHANICAL AVAILABILITY GUARANTEE

14.1 ***Mechanical Availability Guarantee***. Starting [redacted], Seller guarantees that the Project shall have achieved an Actual Mechanical Availability

Percentage greater than or equal to [redacted] (the "**Mechanical Availability Guarantee**"). For purposes of this Article 14, "**Actual Mechanical Availability Percentage**" shall mean [redacted]

(a) "**Mechanical Excused Hours**" means those hours, in full or in part, during which the Project is unavailable, in whole or in part based on the percentage of the Installed Capacity unavailable, as a result of [redacted]

(b) "**Mechanical Unavailable Hours**" means those hours, in full or in part, during which the Project is unavailable, in whole or in part based on the percentage of the Installed Capacity available, and is otherwise not a Mechanical Excused Hour.

(c) "**Cumulative MP Hours**" means the total number of hours in the applicable Measurement Period.

14.2 ***Calculation of Actual Mechanical Availability Percentage***. The Actual Mechanical Availability Percentage of the Project will be calculated on a rolling [redacted] Year average basis (each such rolling [redacted] period, a "**Measurement Period**").

14.3 ***Availability Damages***. For any Measurement Period for which Seller fails to meet the Mechanical Availability Guarantee, Seller shall pay to Customer damages calculated by multiplying: [redacted] which shall be calculated pursuant to Exhibit G (the "**Availability Damages**"); provided, however, notwithstanding the foregoing, in no event shall the [redacted].

(a) Any Availability Damages due and owing under this Agreement shall be reflected on the next invoice issued pursuant to Section 7; *provided* that, for purposes of clarity, under no circumstances shall Customer be liable to Seller for Availability Damages.

14.4 ***Availability Damages are Sole and Exclusive Remedy***. Except as provided below, the payment of Availability Damages shall be Customer's sole and exclusive remedy, and Seller's sole and exclusive liability, for any failure by Seller to satisfy the Mechanical Availability Guarantee for any Measurement Period. Notwithstanding the foregoing, Customer may terminate this Agreement pursuant to Section 18.1(d).

ARTICLE 15
REPRESENTATIONS, WARRANTIES, AND COVENANTS

15.1 ***Seller's Representations and Warranties***. Seller represents and warrants as follows:

(a) Seller is a limited liability company, duly organized, validly existing, and in good standing under the laws of the State of Delaware, and authorized to conduct business in State of Washington;

(b) Seller has the power and authority to enter into and, subject to Seller obtaining the Required Permits, perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement;

(c) Seller has taken all action required by Applicable Law in order to approve, execute and deliver this Agreement;

(d) The execution and delivery of this Agreement, the consummation of the transactions contemplated herein and the fulfillment of and compliance by Seller with the provisions of this Agreement will not conflict with or constitute a breach of or a default under or require any consent, license or approval (except for those Governmental Approvals set forth in Section 3.2) that has not been obtained pursuant to any of the terms, conditions or provisions of any law, rule or regulation, any order, judgment, writ, injunction, decree, determination, award or other instrument or legal requirement of any court or other agency of government, the documents of formation of Seller or any contractual limitation, restriction or outstanding trust indenture, deed of trust, mortgage, loan agreement, lease, other evidence of indebtedness or any other agreement or instrument to which Seller is a party or by which it or any of its property is bound and will not result in a breach of or a default under any of the foregoing;

(e) With the exception of the actions set forth in Section 3.2, Seller has taken all such action as may be necessary or advisable and proper to authorize this Agreement, the execution and delivery hereof, and the consummation of transactions contemplated hereby;

(f) There are no bankruptcy, insolvency, reorganization or receiverships pending or being contemplated by Seller, or to its knowledge threatened against Seller;

(g) There are no actions, proceedings, suits, rulings or investigations pending or, to Seller's knowledge, threatened against Seller or any of its Affiliates that could be reasonably expected to adversely affect Seller's ability to perform its obligations under this Agreement;

(h) This Agreement is a legal, valid and binding obligation of Seller enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditor's rights or by the exercise of judicial discretion in accordance with general principles of equity;

(i) Seller owns, and will at all times during the Delivery Term own or otherwise have all rights necessary to produce and sell to Customer the Product as contemplated by this Agreement; and

(j) Seller represents and warrants to Customer on a continuing basis that: (i) it has not sold, pledged, assigned, transferred or otherwise disposed of, and will not sell, pledge, assign, transfer or otherwise dispose of, any of the Product associated with the Project to any Person other than Customer; (ii) that it has not claimed any Product for its own benefit or account; and (iii) that it will deliver to Customer the Product free and clear of all liens, security interests, claims and encumbrances, or any interest therein or thereto by any Person arising prior to or at the Delivery Point.

15.2 ***Customer's Representations and Warranties***. Customer represents and warrants as follows:

(a) Customer is a public utility district, duly organized, validly existing, and in good standing under the laws of the State of Washington;

(b) Customer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement;

(c) Customer has taken all action required by Applicable Law in order to approve, execute and deliver this Agreement;

(d) The execution and delivery of this Agreement, the consummation of the transactions contemplated herein and the fulfillment of and compliance by Customer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under or require any consent, license or approval that has not been obtained pursuant to any of the terms, conditions or provisions of any law, rule or regulation, any order, judgment, writ, injunction, decree, determination, award or other instrument or legal requirement of any court or other agency of government, the documents of formation of Customer or any contractual limitation, restriction or outstanding trust indenture, deed of trust, mortgage, loan agreement, lease, other evidence of indebtedness or any other agreement or instrument to which Customer is a party or by which it or any of its property is bound and will not result in a breach of or a default under any of the foregoing;

(e) Customer has taken all such action as may be necessary or advisable and proper to authorize this Agreement, the execution and delivery hereof, and the consummation of transactions contemplated hereby;

(f) There are no bankruptcy, insolvency, reorganization or receiverships pending or being contemplated by Customer, or to its knowledge threatened against Customer;

(g) There are no actions, proceedings, suits, rulings or investigations pending or, to Customer's knowledge, threatened against Customer that could be reasonably

expected to adversely affect Customer's ability to perform its obligations under this Agreement; and

(h) This Agreement is a legal, valid and binding obligation of Customer enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditor's rights or by the exercise of judicial discretion in accordance with general principles of equity.

15.3 ***Seller's Covenants***.

(a) Seller covenants that Seller shall comply with all Applicable Law, including all anti-corruption, antibribery, anti-money laundering, antiterrorism and economic sanction and antiboycott Applicable Law.

(b) Seller shall notify Customer promptly, but in no event later than ten (10) Business Days, after Seller or its representatives has actual knowledge of any adverse legal action or lawsuit or investigation, against or involving the Project or Seller that could reasonably be expected to have a material adverse effect on the reputation of the Project.

ARTICLE 16
INDEMNIFICATION

16.1 ***General Indemnity***. Subject to the provisions of Section 18.6, Seller shall release, protect, defend, indemnify and hold harmless Customer, its directors, officers, employees, agents, contractors and representatives, from and against all claims, demands, causes of action, judgments, liabilities and associated costs and expenses (including reasonable attorney's fees) arising from: (i) the Project Energy and other applicable Product after delivery to the Delivery Point; (ii) any claims by third-parties asserting a right to have any Products delivered or transferred to them from the Project; (iii) any property damage, bodily injuries, or death suffered by any third party Person (including, without limitation, employees of the Parties) related to, arising from, or connected to the performance or non-performance by Seller of its obligations hereunder.

16.2 ***Indemnity by Customer***. Subject to the provisions of Section 18.6 (Waiver of Certain Damages), Customer shall release, protect, defend, indemnify and hold harmless Seller, its Affiliates, directors, officers, employees, agents and representatives, from and against all claims, demands, causes of action, judgments, liabilities and associated costs and expenses (including reasonable attorney's fees) arising from (i) Project Energy after its delivery by Seller at the Delivery Point; (ii) any Product that has been delivered to Customer at the Delivery Point or otherwise transferred to Customer in accordance with the terms of this Agreement; or (iii) any property damage, bodily injuries or death suffered by any third party Person (including, without limitation, employees of the Parties) related to, arising from, or connected to the performance or non-performance by Customer of its obligations hereunder.

16.3 ***Comparative Negligence***. The indemnification provisions of this Section 16.3 shall apply notwithstanding the negligent acts or omissions of the indemnitee, but the indemnitor's liability to the indemnitee shall be reduced proportionately to the extent that a negligent act or omission of the indemnitee contributed to the loss, injury or property damage. Further, no

indemnitee shall be indemnified hereunder for its loss, liability, injury, and damage resulting from its gross negligence, fraud or willful misconduct.

16.4 ***Notice and Limitation of Claims***.

(a) If any Person seeking indemnification hereunder (an "**Indemnified Party**") believes that a claim, demand or other circumstance exists that has given or may reasonably be expected to give rise to a right of indemnification under this Section 16.4 (whether or not the amount thereof is then quantifiable) against a Party (the "**Indemnifying Party**"), such Indemnified Party shall assert its claim for indemnification by giving written notice thereof (a "**Claim Notice**") to the Indemnifying Party within ten (10) Business Days following receipt of notice of such claim, suit, action or proceeding by such Indemnified Party. Each Claim Notice shall describe the claim in reasonable detail. The failure of the Indemnified Party to so notify the Indemnifying Party shall not relieve the Indemnifying Party of liability hereunder except (and then only) to the extent that the defense of such claim, suit, action or proceeding is prejudiced by the failure to give such notice.

(b) Upon receipt by an Indemnifying Party of a Claim Notice, the Indemnifying Party shall be entitled to assume control over the defense of such action or claim, with the reasonable input of the Indemnified Party, at its sole cost and expense and with its own counsel (provided that it give notice of its intention to do so to the Indemnified Party within thirty (30) Days of the receipt of the Claim Notice). The Indemnifying Party's retention of counsel shall be subject to the written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned, or delayed. The Indemnifying Party may negotiate a settlement or compromise of such action or claim; provided, that (A) such settlement or compromise shall include a full and unconditional waiver and release of all Indemnified Parties (without any cost or liability of any nature whatsoever to such Indemnified Parties) and (B) any such settlement or compromise shall be permitted hereunder only with the written consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned or delayed.

(c) If the Indemnifying Party elects to defend any such action or claim, then the Indemnified Party shall be entitled to participate in such defense with its own counsel at its own cost and expense. Notwithstanding the foregoing, the Indemnified Party may, upon notice to the Indemnifying Party, assume the exclusive right to defend, compromise and settle such claim, in which case the reasonable fees and expenses of the Indemnified Party's counsel shall be borne by the Indemnified Party. In such case, any settlement or compromise of the claim by the Indemnified Party at the expense of the Indemnifying Party shall be permitted hereunder only with the written consent of the Indemnifying Party, which shall not be unreasonably withheld, conditioned or delayed.

(d) If, within thirty (30) Days of receipt from an Indemnified Party of any Claim Notice, the Indemnifying Party (i) advises such Indemnified Party in writing that the Indemnifying Party shall not elect to defend, settle or compromise such action or claim or (ii) fails to make such an election in writing, such Indemnified Party may, at its option, defend, settle or otherwise compromise or pay such action or claim at the expense of the Indemnifying Party.

(e) Each Indemnified Party shall make available to the Indemnifying Party, through legal counsel and subject to attorney-client privilege, all information reasonably available to such Indemnified Party relating to such action or claim, except as may be prohibited by Applicable Law. In addition, the Parties shall render to each other such assistance as may reasonably be requested in order to ensure the proper and adequate defense of any such action or claim. The Party in charge of the defense shall keep the other Party fully apprised at all times as to the status of the defense or any settlement negotiations with respect thereto.

16.5 ***Information***. Each Indemnified Party shall make available to the Indemnifying Party all information reasonably available to such Indemnified Party relating to such action or claim, except as may be prohibited by Applicable Law. In addition, the Parties shall render to each other such assistance as may reasonably be requested in order to ensure the proper and adequate defense of any such action or claim. The Party in charge of the defense shall keep the other Party fully apprised at all times as to the status of the defense or any settlement negotiations with respect thereto.

ARTICLE 17
INSURANCE

17.1 ***Required Coverage***. Seller, at its own cost and expense, shall maintain or cause to maintain, and keep in full force and effect from the date hereof through the later of the date of expiration or termination hereof, the following insurance coverage:

(a) [redacted]

[redacted]

17.2 ***Form of Insurance Policies***. All insurance policies required to be obtained hereunder shall provide insurance for occurrences from the date hereof through the later of the expiration or termination hereof. If any insurance policy required to be obtained hereunder is on a "claims made" basis, [redacted].

(a) Customer, its officers, agents and employees shall be named as additional insured on all commercial general liability, auto liability, and umbrella/excess liability insurance policies required by the specifications hereunder to be maintained by or on behalf of Seller.

(b) All policies with respect to insurance maintained by Seller, except for the professional liability policy, shall waive any right of subrogation of the insurers hereunder against Customer, its officers, directors, employees, agents and representatives of each of them, and any right of the insurers to any setoff or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under such policy.

(c) All insurance coverage required by this Agreement shall be issued by an insurer with an A.M. Best's rating of not less than "**A-VII**" or such other insurer as is reasonably acceptable to Customer.

(d) Subject to the continued maintenance of the minimum insurance limits set forth herein, Seller, or Seller's Affiliate, retains the right to make reasonable decisions regarding its Insurance and Risk Financing Programs; including insurance terms and conditions, levels of deductibles/retentions and available limits of coverage – based on insurance market conditions, available capacity and/or other events that could impact the Seller's, or Seller's Affiliate's, overall cost of insuring risk.

(e) Seller shall endeavor to notify Customer of any material change in, or cancellation of, the insurance required by this Section at least thirty (30) Days prior to the effective date of such change or cancellation except in the case of non-payment of premiums in which case the notice shall be ten (10) Days or as soon as reasonably known.

17.3 ***Certificates of Insurance***. Within fifteen (15) Days after the Effective Date, Seller shall provide to Customer and thereafter maintain with Customer a current certificate of insurance verifying the existence of the insurance coverage required by this Agreement.

ARTICLE 18
DEFAULTS AND REMEDIES

18.1 ***Events of Default***. Each of the following shall constitute an "**Event of Default**" hereunder:

(a) Failure by a Party to make any payment required when due if such failure is not remedied within ten (10) Business Days after receipt by the Defaulting Party of written notice of such failure, provided such payment is not the subject of a Dispute;

(b) Seller's failure to provide or maintain Credit Support as required in Section 9 if such failure is not remedied within fifteen (15) Business Days following written notice by Customer;

(c) Except as may be expressly allowed hereunder, Seller claims or retains any Product for its own use or account or delivers any Product to any Person other than Customer if such action is not remedied within five (5) Business Days following written notice by Customer;

(d) The failure of Seller to achieve an Actual Mechanical Availability Percentage of at least [redacted];

(e) Failure by a Party to perform any other material obligation hereunder (except to the extent constituting a separate Event of Default) if such failure is not remedied within thirty (30) Days after receipt by the Defaulting Party of written notice of such failure; provided that if such failure is not reasonably capable of being cured within such thirty (30) Day period but is reasonably capable of cure, then for so long as the Defaulting Party has initiated and is diligently attempting to effect a cure, such Defaulting Party's cure period shall extend for an additional sixty (60) Days;

(f) Either Party: (i) makes an assignment for the benefit of its creditors; (ii) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law; (iii) has such petition filed against it and such petition is not withdrawn or dismissed for sixty (60) Days after such filing; (iv) becomes insolvent; or (v) is unable to pay its debts when due;

18.2 ***Remedies***. Upon the occurrence of an Event of Default by a Party (the "**Defaulting Party**"), the other Party (the "**Non-Defaulting Party**") shall have the rights and remedies set forth

below, which shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

(a) To terminate this Agreement by providing written notice to the Defaulting Party of its exercise of its termination rights, which termination shall be effective twenty (20) days after the day such notice is deemed to be delivered under Section 22.4 (the "**Early Termination Date**");

(b) To suspend performance of its obligations and duties hereunder immediately upon delivering written notice to the Defaulting Party of its intent to exercise its suspension rights;

(c) To withhold any payments due to the Defaulting Party under this Agreement;

(d) To recover in connection with such termination (i) the Pre-COD Termination Payment for a termination due to a Seller Event of Default occurring prior to COD, or (i) the Termination Payment set forth in Section 18.5, for a termination occurring due to: (x) a Customer Event of Default occurring at any time during the Term; or (y) a Seller Event of Default occurring after COD;

(e) To exercise any rights pursuant to Section 9.3 to draw upon any Credit Support provided by the Defaulting Party (if applicable); and

(f) To, subject to the express limitations on remedies set forth in this Agreement, pursue any other remedy given under this Agreement or Applicable Law, now or hereafter existing at law or in equity or otherwise.

18.3 ***Specific Performance***. Notwithstanding anything herein to the contrary, the Parties agree that no adequate remedy at law may exists for certain breaches or threatened breaches of this Agreement, the continuation of which unremedied will cause the aggrieved Party to suffer irreparable harm. In such case, the Parties agree that the Parties shall be entitled, in addition to other remedies that may be available to them, to immediate injunctive relief from any breach or threatened breach of any of the provisions of this Agreement and to specific performance of their rights hereunder, as well as to any other remedies available at law or in equity. This right of specific enforcement is an integral part of the transactions contemplated by this Agreement and without that right, the Parties would not have entered into this Agreement. The Parties agree that they will not oppose the granting of an injunction, specific performance and other equitable relief on the basis that the opposing Party has an adequate remedy at law or an award of specific performance is not an appropriate remedy for any reason at law or in equity. The Parties shall not be required to provide any bond or other security in connection with any such order or injunction. The Parties also agree that seeking of any remedies pursuant to this Section 18.3 shall not in any way constitute a waiver of any right to seek any other form of relief that may be available under this Agreement.

18.4 ***Mitigation of Damages***. Each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance hereof. "**Commercially**

reasonable efforts" by Seller shall require Seller to use commercially reasonable efforts to maximize the price for the Product received by Seller from third parties.

18.5 ***Termination Payment Calculation***.

(a) Upon termination of this Agreement as a result of an Event of Default (except for those events for which the Pre-COD Termination Payment shall apply, including but not limited to Section 18.1(d)), the Non-Defaulting Party shall calculate an amount (the "**Termination Payment**") equal to the aggregate of: [redacted] If the Termination Payment is a positive amount, then the Defaulting Party shall pay the Termination Payment to the Non-Defaulting Party. If the Termination Payment is a negative amount, the amount of the Termination Payment shall be deemed to be zero and no payment shall be made to either Party.

(b) It is understood and agreed that it is not necessary for the Non-Defaulting Party to enter into a Replacement Contract to determine the per kWh price under a Replacement Contract and if a Replacement Contract is not entered into by the Non-Defaulting Party, the per kWh price with respect to a Replacement Contract shall be the fair market price of the Products (including the price for reasonably comparable energy products and attributes associated therewith) that would have been payable under a Replacement Contract as determined in a commercially reasonable manner by the Non-Defaulting Party. In determining the per kWh price when a Replacement Contract is not entered into, the Non-Defaulting Party may consider, among other valuations, quotations from leading dealers in energy contracts, the settlement prices on established, actively traded power exchanges, other bona fide third party offers and other commercially reasonable market information.

(c) [redacted]

(d) In the event of termination pursuant to this Section 18.5, the Parties shall be released and discharged from any obligations arising or accruing hereunder from and after the date of such termination and shall not incur any additional liability to each other as a result of such termination; *provided* that such termination shall not discharge or relieve either Party from any obligation that by its terms requires or contemplates performance after such termination event, and any obligation that has accrued prior to such termination or any indemnity obligations under Article 16 or the provisions of Article 21, which provisions shall survive any termination of this Agreement.

18.6 ***Waiver of Certain Damages; Certain Acknowledgments***. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT (EXCEPT TO THE EXTENT INDEMNIFICATION PAYMENTS ARE MADE PURSUANT TO SECTION 16.1 AS A RESULT OF AN INDEMNIFIED PERSON'S OBLIGATION TO PAY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES TO A THIRD PARTY (EXCLUDING EITHER PARTY'S AFFILIATES, LENDERS, OFFICERS, DIRECTORS, SHAREHOLDERS OR MEMBERS) AS A RESULT OF ACTIONS INCLUDED IN THE PROTECTION AFFORDED BY THE INDEMNIFICATION SET FORTH IN SECTION 16.1), NEITHER CUSTOMER NOR SELLER (NOR ANY OF THEIR AFFILIATES, LENDERS, CONTRACTORS, CONSULTANTS, OFFICERS, DIRECTORS, SHAREHOLDERS, MEMBERS OR EMPLOYEES) SHALL BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES UNDER, ARISING OUT OF, DUE TO, OR IN CONNECTION WITH ITS PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT OR ANY OF ITS OBLIGATIONS HEREIN, WHETHER BASED ON CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), STRICT LIABILITY, WARRANTY, INDEMNITY OR OTHERWISE, EXCEPT IN CASES OF FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. FOR BREACH OF ANY PROVISION OF THIS AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED TO BE THE EXCLUSIVE REMEDY THEREFOR, THE RIGHTS OF THE NON-DEFAULTING PARTY AND THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED AS SET FORTH IN THIS AGREEMENT AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED, EXCEPT IN CASES OF FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. THE PARTIES ALSO AGREE THAT IN ALL CASES WHERE THIS AGREEMENT PROVIDES FOR LIQUIDATED DAMAGES, INCLUDING WITHOUT LIMITATION ANY TERMINATION PAYMENT PROVIDED FOR HEREIN, THE ACTUAL DAMAGES WOULD BE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OBTAINING AN ADEQUATE REMEDY WOULD BE UNREASONABLY TIME CONSUMING AND EXPENSIVE, AND THEREFORE SUCH LIQUIDATED DAMAGES ARE A REASONABLE APPROXIMATION OF THE HARM AND NOT A PENALTY, AND IN NO EVENT SHALL SUCH LIQUIDATED DAMAGES BE CONSIDERED SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES.

18.7 ***Pre-COD Limitation of Liability***. Notwithstanding any provision herein to the contrary, Seller's aggregate liability under this Agreement shall be in accordance with the following: [redacted]

[redacted]

ARTICLE 19
FORCE MAJEURE

19.1 ***Force Majeure Generally***. The performance of any obligation required hereunder shall be excused during the continuation of any Force Majeure event suffered by the Party whose performance is hindered in respect thereof, to the extent such Force Majeure event prevents the affected Party from performing its obligations under this Agreement. The affected Party's time for performance of any obligation that has been delayed due to the occurrence of a Force Majeure event shall be extended by a period of time reasonably necessary to compensate for the delay caused by the Force Majeure event, subject to any limitations on such extension provided for in this Agreement. The Party experiencing the delay or hindrance shall use diligent efforts to remedy or overcome the Force Majeure event and the suspension of performance shall be of no greater scope and of no longer duration than that required by the Force Majeure.

19.2 ***Notice of Force Majeure Event***. The affected Party shall: (i) as soon as reasonably practicable notify the other Party in writing describing in detail the occurrence of such Force Majeure event and the anticipated period of delay, but in no event shall the notification take longer than forty-eight (48) hours after the Party has determined that a Force Majeure event has occurred; (ii) within ten (10) Business Days after the Party has knowledge of the Force Majeure event, provide a written explanation of the Force Majeure event and its effect on the affected Party's performance; and (iii) thereafter provide periodic written reports on the status of the affected Party's efforts to remedy its inability to perform and a good faith estimate of when it will be able to resume performance, in each case to the extent known at the time of the report. If the affected Party fails to notify or provide a written report to the other Party within the applicable timeframes set forth above, the affected Party shall not be entitled to relief as a result thereof until such time as the affected Party has remedied such failure. Each Party suffering a Force Majeure event shall (i) take, or cause to be taken, any such action as may be necessary to overcome or otherwise to mitigate, in all material respects, the effect of any Force Majeure event suffered by either of them, (ii) to provide written notice to the other Party of such actions, and (iii) to resume performance hereunder as soon as practicable under the circumstances.

19.3 ***Termination***. Except as provided below, if any Force Majeure event prevents or substantially prevents a Party's performance under this Agreement for more than [redacted] then, provided such Force Majeure shall be continuing to substantially prevent a Party's performance under this Agreement, either Party may terminate this Agreement upon notice to the other Party. Such termination shall be without liability of either Party except on account of amounts accrued prior to the date of such termination; [redacted]

[redacted]

19.4 ***Force Majeure Defined***. As used herein, "**Force Majeure**" shall mean any event or circumstance that wholly or partly prevents or delays the performance of any obligation arising under this Agreement, but only if and to the extent: (i) such event is not within the reasonable control of the Party seeking to have its performance obligation(s) excused thereby; (ii) the Party seeking to have its performance obligation(s) excused thereby has taken all reasonable precautions and measures in order to prevent or avoid such event or mitigate the effect of such event on such Party's ability to perform its obligations under this Agreement and that, by the exercise of reasonable diligence, such Party could not reasonably have been expected to avoid and that by the exercise of due diligence it has been unable to overcome; and (iii) such event is not the result of the negligence or the failure of, or caused by, the Party seeking to have its performance obligations excused thereby.

19.5 ***Exclusions***. Force Majeure shall not be based on:

(a) Customer's or Seller's inability to obtain transmission service and the unavailability or interruption of transmission service (unless the unavailability or the interruption was the result of a System Emergency or otherwise caused by an occurrence that itself would qualify as a Force Majeure event hereunder);

(b) Customer's inability economically to use or resell all or a portion of the Product purchased hereunder;

(c) Seller's inability to operate the Project economically notwithstanding the existence of this Agreement;

(d) Seller's ability to sell all or a portion of the Product at a price greater than the price set forth in this Agreement;

(e) Seller's failure to obtain additional funds, including funds authorized by a state or the federal government or agencies thereof, to supplement the payments made by Customer pursuant to this Agreement;

(f) A strike, work stoppage or labor dispute arising out of or limited only to any one or more of Seller, Seller's Affiliates, or any other third party employed by Seller to work on the Project; or

(g) A Party's inability to pay amounts due, or to deliver Credit Support to the other Party under this Agreement, except if such inability is caused solely by a Force Majeure event that disables physical or electronic facilities necessary to transfer funds or credit support instruments to the other Party.

ARTICLE 20
CHANGE IN TAX LAW; COMPLIANCE COST CAP

20.1 ***Change in Tax Law***. If there is a change in Applicable Law such that the Project cannot qualify for [redacted] (such change, a "**Change in Tax Law**"), despite Seller's exercise of commercially reasonable efforts to do so, the Parties shall negotiate in good faith to find a mutually agreeable allocation of costs such that Seller can comply with its obligations under this Agreement. If the Parties are unable to reach such a resolution within [redacted] of the Parties initiating negotiations, then Seller shall have the right to terminate this Agreement, effective upon delivery of written notice to Customer. For the avoidance of doubt, neither Party shall have any liability to the other Party as a result of a termination due to a Change in Tax Law and Customer shall promptly return to Seller any Credit Support held by Customer.

20.2 ***Compliance Cost Cap***. Except with respect to a Trade Event (which shall be governed by Section 6.2(a)), DC Change Event (which shall be governed by Section 6.2(b)), or Change in Tax Law (which shall be governed by Section 20.1), if a change in Applicable Law occurring after the Effective Date increases Seller's known or reasonably expected costs and expenses to comply with Seller's obligations under this Agreement (any such incremental costs, "**Compliance Costs**," and any such action required to be taken by Seller to comply with such change in Applicable Law, a "**Compliance Action**"), then the Parties agree that the maximum aggregate amount of Compliance Costs that Seller shall be required to bear during the Term to comply with all such Compliance Actions shall be capped at [redacted] (the "**Compliance Cost Cap**").

20.3 ***Allocation of Additional Compliance Costs***. If Seller reasonably anticipates the need to incur Compliance Costs in excess of the Compliance Cost Cap in order to take any Compliance Action, then Seller shall provide written notice to Customer of such anticipated additional Compliance Costs. The Parties shall thereafter negotiate in good faith to find a mutually agreeable allocation of such additional Compliance Costs such that Seller can comply with its obligations under this Agreement. If the Parties are unable to reach a resolution on the allocation of additional Compliance Costs within forty-five (45) Days of Seller's notice to Customer, then the matter shall be resolved pursuant to binding arbitration by a panel of three arbitrators to be conducted in the State of Washington according to the Commercial Arbitration Rules of the American Arbitration Association. Each Party shall select an arbitrator within fifteen (15) Days, which shall together select the third arbitrator within fifteen (15) Days. Each arbitrator shall have not less than ten (10) years' experience in the electric energy industry. The arbitration panel shall use commercially reasonable efforts to decide the matter within thirty (30) Days, and shall issue a written opinion in support of their decision. Each Party shall bear the costs of their own legal representation, and the Parties shall share equally all other costs of the arbitration. Notwithstanding anything herein to the contrary herein, Seller shall undertake all Compliance Actions necessary to maintain the Project in full compliance with Applicable Law and this Agreement pending the completion of the arbitration.

ARTICLE 21
CONFIDENTIALITY

21.1 ***Confidential Information***.

(a) Notwithstanding the confidential and proprietary nature of Confidential Information, the Parties (each, the "**Disclosing Party**") may make Confidential Information available to the other (each, a "**Receiving Party**") subject to the provisions of this Section 21.1.

(b) Upon receiving or learning of Confidential Information, the Receiving Party shall treat such Confidential Information as confidential and use reasonable care not to divulge such Confidential Information to any third party except as permitted hereunder or required by Applicable Law, subject to the restrictions set forth below.

(c) The restrictions of this Section 21.1 do not apply to:

(i) Release of this Agreement or any part or summary hereof to any Governmental Authority required for obtaining any approval or making any filing pursuant to Section 3.2; provided, that (a) Seller agrees to cooperate in good faith with Customer to maintain the confidentiality of the provisions of this Agreement by requesting confidential treatment with all filings to the extent appropriate and permitted by Applicable Law and (b) Seller shall provide reasonable notice to Customer, prior to disclosure (if not prevented by law), of the time and scope of the intended disclosure in order to provide Customer an opportunity to obtain a protective order or otherwise seek to prevent, limit the scope of, or impose conditions upon such disclosure;

(ii) Information which is, or becomes, publicly known or generally available to the public other than through the action of the Receiving Party in violation of this Agreement;

(iii) Information which is in the possession of the Receiving Party prior to receipt from the Disclosing Party or which is independently developed by the Receiving Party prior to the date hereof;

(iv) Information which is received from a third party which is not known (after due inquiry) by Receiving Party to be prohibited from disclosing such information pursuant to a contractual, fiduciary or legal obligation; and

(v) Information which the Receiving Party determines is required to be disclosed pursuant to Applicable Law; provided the Receiving Party shall provide reasonable notice to the Disclosing Party of the time and scope of the intended disclosure.

(d) Notwithstanding the foregoing, the Parties may provide any Confidential Information: (i) to a Transmission Provider as required for scheduling, settlement and billing, (ii) to any Person with review rights specified in other provisions of this Agreement

and (iii) on a need-to-know basis to agents, trustees, employees, managers, officers, representatives, contractors, suppliers, consultants, accountants, financial advisors, experts, legal counsel, other professional advisors to the Parties, their Affiliates, and prospective investors and Lenders to either Party, provided that in the case of clauses (ii) and (iii), such Persons have been advised of the confidential nature of the information and have agreed to maintain the confidentiality thereof on terms and conditions at least as restrictive as those set forth herein and the Party providing Confidential Information to any such Person shall be responsible for the compliance with this Agreement by any such Person. If Confidential Information is the subject of a subpoena from a third party, the Receiving Party may disclose such Confidential Information on the advice of its counsel in compliance with the subpoena, provided that the Disclosing Party shall provide notice thereof to the providing Party and make reasonable efforts to afford the providing Party an opportunity to obtain a protective order or other relief to prevent or limit disclosure of the Confidential Information. The obligation to provide confidential treatment to Confidential Information shall not be affected by the inadvertent disclosure of Confidential Information by either Party.

(e) Seller expressly understands and agrees that Customer is a governmental entity that is subject to the Washington Public Records Law. Notwithstanding anything to the contrary contained herein, Customer may disclose Confidential Information if Customer reasonably determines that disclosure is necessary or appropriate in connection with any public records request. In such case, Customer shall: (i) endeavor to keep Seller informed with respect to such disclosures; (ii) limit such disclosure to the minimum required to meet Customer's obligation as determined by Customer in its reasonable discretion; and (iii) provide reasonable notice to Seller, prior to disclosure (if not prevented by law), of the time and scope of the intended disclosure in order to provide Seller an opportunity to seek a protective order or otherwise seek to prevent, limit the scope of, or impose conditions upon such disclosure.

(f) Seller may disclose Confidential Information upon reasonable notice to Customer if Seller reasonably determines, based upon its or its Affiliates' status as a publicly traded company, that disclosure to the market, investors or a Governmental Authority is necessary or appropriate under Applicable Law or relevant exchange rules, provided that Seller shall (x) endeavor to keep Customer informed with respect to such disclosures, and (y) limit such disclosure to the minimum required to meet Seller's obligation as determined by Seller in its reasonable discretion.

(g) Neither Party shall issue any press or publicity release, other than information that is required to be distributed or disseminated pursuant to Applicable Law (provided that the Disclosing Party has given notice to, and an opportunity to prevent disclosure by, the other Party as provided in Section 21.1(c)(v) concerning this Agreement or the participation of the other Party in the transactions contemplated hereby) without the prior written approval of the other Party. This provision shall not prevent the Parties from releasing information which is required to be disclosed in order to obtain permits, licenses, releases and other approvals relating to the Project, as are necessary in order to fulfill such Party's obligations under this Agreement.

(h) The obligations of the Parties under this Section 21.1 shall remain in full force and effect for [redacted] following the expiration or termination of this Agreement.

ARTICLE 22
MISCELLANEOUS

22.1 ***Taxes***. If the sale or transfer of any Products hereunder becomes subject to Washington State and Local Sales and Use Taxes, then Customer shall pay (and shall indemnify and hold Seller harmless on an after-tax basis from and against) all such Washington State and Local Sales and Use Taxes arising out of or with respect to the purchase, transfer, or deliver of Products that are imposed by any taxing authority at or after the Delivery Point (regardless of whether such Washington State and Local Sales and Use Taxes are imposed on Customer or Seller), together with any interest, penalties, or additions to tax payable with respect to such Washington State and Local Sales and Use Taxes. Seller shall pay (and shall indemnify and hold Customer harmless on an after-tax basis from and against) all other taxes, including taxes arising out of or with respect to the purchase or sale of Products that are imposed by any taxing authority prior to the Delivery Point, taxes based on or measured by Seller's net income, business and occupation taxes, public utility taxes, property taxes, replacement taxes or special assessments that may be levied upon the Project as well as state or local sales taxes applicable to the construction, maintenance, repair or operation of the Project, together with any interest, penalties or additions to tax payable with respect thereto.

22.2 ***Assignment***.

(a) This Agreement shall inure to the benefit of, and shall be binding upon, the Parties and their respective successors and permitted assigns. This Agreement shall not be assigned or transferred by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, delayed or conditioned. In connection with any permitted assignment pursuant to this Section 22.2, among other things: (i) the assignee shall expressly assume all of the assignor's existing and future obligations under this Agreement (whether arising before or after such assignment): and (ii) the assignee shall agree in writing to be bound by the terms and conditions of this Agreement. In addition, with respect to any proposed assignment by Seller, Seller shall deliver or cause to be delivered to Customer evidence reasonably satisfactory to Customer of the technical and financial capability of the proposed assignee, it being understood that for any proposed assignee or transferee, technical capability may be demonstrated by a showing that the assignee or transferee or its Affiliates have a minimum of three (3) years' experience in the solar generation and operation business, or having a long-term contractual arrangement (not less than three (3) years in duration) with an operator for the Project meeting such requirements. Notwithstanding the foregoing, Customer's inclusion of this Project in a pooling agreement with other Customer resources, pursuant to which the Project may be managed, scheduled, or dispatched by a Person other than Customer, shall not be considered an assignment or transfer of the Project requiring Seller's consent under this Section 22.2.

(b) If either Party wishes to assign, transfer, or otherwise convey its interest in this Agreement, it shall provide prior written notice of such proposed conveyance and

information demonstrating the assignee or transferee meets the qualifications of Section 22.2(a) to the non-assigning Party, along with any other reasonably requested information. Within thirty (30) Days' receipt of notice of any proposed assignment, the non-assigning Party shall either consent or object to the proposed assignment, such consent not to be unreasonably withheld, *provided* that the assigning Party shall promptly provide any information on the proposed assignee or transferee requested by the non-assigning Party during such term.

(c) Notwithstanding the foregoing, Seller may, without the consent of, but with written notice to, Customer:

(i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues, or proceeds hereof to any Lender in connection with any financing of the Project; or

(ii) transfer of assign this Agreement (which may be associated with the transfer of sale of all or substantially all of the equity interests in Seller) to any Affiliate of Seller that meets the technical and financial capability qualifications of an assignee hereunder.

(d) In accordance with Section 22.2(c)(i), Seller may assign this Agreement to a Lender as collateral for any financing or refinancing of the Project. In such case, Customer will, at Seller's expense, execute customary consents to collateral assignment of this Agreement in favor of any debt Lenders for collateral purposes as may be reasonably required by such Lenders, giving such Lenders "step-in" cure rights with respect to Events of Default, notices of such Events of Default, and such other rights as are customary in connection with the financing of projects similar to the Project. In addition, Customer will, at Seller's expense, execute customary estoppels in favor of Lenders providing tax equity financing. Notwithstanding the foregoing, Customer will not be obligated to agree to any provisions that would adversely affect the rights or increase the duties of Customer under this Agreement in any material respect, including the extension of any cure periods or additional remedies for financing. Customer acknowledges that upon an event of default by Seller under any financing documents relating to the Project, any of the debt Lenders may (but shall not be obligated to) assume, or cause its designee or a new lessee or Customer of the Project, to assume, all of the interests, rights and obligations of Seller thereafter arising under this Agreement; *provided* that such Lender, its designee or a new lessee or Customer must comply with the qualifications requirements set forth in Section 22.2(a).

(e) Except in connection with Section 22.2(c)(i) above, each Party shall cause any permitted assignee or transferee of such Party's interests in, to or under this Agreement to assume all existing and future obligations of such Party to be performed under this Agreement. Except with respect to assignments pursuant to Section 22.2(c)(i) and (ii) above, upon any permitted assignment or transfer of this Agreement, the assigning or transferring Party shall be, without further action by either Party, released and discharged from all obligations under this Agreement arising after the effective date of such assignment or transfer.

(f) Seller shall be required to assign this Agreement to any Person that becomes the direct owner of all or substantially all of the assets comprising the Project concurrently with the transfer of the applicable assets. For the sake of clarity, the foregoing shall not relieve Seller of the restrictions on assignment of this Agreement contained in this Section 22.2, and therefore if consent to the necessary assignment is required, any proposed transfer of all or substantially all of the assets comprising the Project shall require the consent of Customer to the same extent and subject to the same terms and conditions as for the required assignment of this Agreement.

(g) Any transfer by either Party not expressly permitted under this Section 22.2 shall be null and void *ab initio* and of no force or effect and further shall be deemed to be an Event of Default hereunder.

22.3 ***Financing Liens***. Seller, without approval of Customer, may, by security, charge or otherwise encumber its interest under this Agreement for the purposes of financing the development, construction and/or operation of the Project and Seller's Interconnection Facilities (including any tax equity financing).

22.4 ***Notices***. All notices and communications required to be given pursuant to this Agreement shall be: (i) in writing; (ii) delivered by hand (against receipt), recorded courier or express service, or sent by electronic mail; provided, that any communications delivered by electronic mail shall be in a portable document format (PDF); and (iii) delivered, sent or transmitted to the address for the recipient's communications as stated below; provided, that if the recipient gives the other Party notice of another address, communications shall thereafter be delivered accordingly, and if the recipient has not stated otherwise when requesting an approval or consent, it may be sent to the address from which the request was issued.

(a) Any such notice and communication shall be deemed to have been received by a Party as follows: (i) if delivered by hand or delivered by courier or express service, at the time of delivery; or (ii) if sent by electronic mail properly addressed and dispatched, upon transmission, if during the recipient's regular business hours, and otherwise, on the next Business Day, *provided* that in either case such notice shall not be effective unless a copy of such notice shall be sent by registered or certified mail, return receipt requested, postage prepaid.

(b) The addresses for notices shall be as follows:

If to Seller: Royal Slope Solar, LLC
11988 El Camino Real, 500,
San Diego, CA 92130
Attn: General Counsel
Email: legalnotices@clearwayenergy.com

with a copy to:

Attn: Clearway Asset Management
Email: am@clearwayenergy.com

If to Customer: Public Utility District No. 2 of Grant County
30 C St. SW
Ephrata, WA 98823
Attn: Mike Bradshaw
Email: mbradshaw@gcpud.org

with a copy to:

Attention: Rich Flanigan
Email: rflanig@gcpud.org

22.5 ***Amendments***. This Agreement shall not be modified nor amended unless such modification or amendment shall be in writing and signed by authorized representatives of both Parties.

22.6 ***Records; Audit Rights***. Seller shall maintain complete and accurate records of and supporting documentation for all charges under this Agreement and all other data and/or information created, generated, collected, processed or stored by Seller in its performance under this Agreement ("**Contract Records**"). Unless Customer instructs Seller to delete or destroy any Contract Records or requests the return of such Contract Records to Customer, Seller shall retain Contract Records for a period of at [redacted] after the date of the performance or after termination of this Agreement (the "**Retention Period**").

(a) Seller shall provide to Customer and its representatives through the Retention Period, access at reasonable hours to Seller personnel and facilities and to Contract Records and other pertinent information, all to the extent relevant to Seller's performance under this Agreement. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Late Payment Rate from the date the overpayment or underpayment was made until paid; *provided, however*, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of [redacted] from the rendition thereof, and thereafter any objection shall be deemed waived.

(b) Except as otherwise provided in this paragraph, each Party will be responsible for its own costs associated with any audit activity pursuant to this Section 22.6. If an audit reveals an overcharge of more than [redacted], then Seller shall promptly reimburse Customer for the reasonable cost of the portion of such audit relating to the overcharge.

22.7 ***Waivers***. Failure to enforce any right or obligation by any Party with respect to any matter arising in connection with this Agreement shall not constitute a waiver as to that matter nor to any other matter. Any waiver by any Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing. Such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

22.8 ***Survival***. Notwithstanding any provisions herein to the contrary, the obligations set forth in Article 16 (Indemnification), Article 17 (Insurance), Article 21 (Confidentiality), and Article 22 (Miscellaneous) and Section 18.2 (Remedies) shall survive (in full force) the expiration or termination of this Agreement. All other provisions of this Agreement that must survive the expiration or earlier termination of this Agreement in order to give full force and effect to the intent of the Parties shall remain in effect and be enforceable following such expiration or termination to such extent.

22.9 ***Severability***. If any of the terms of this Agreement are finally held or determined to be invalid, illegal or void, all other terms of the Agreement shall remain in effect, and that provision shall be severed from the remainder of the Agreement, and replaced automatically by a provision containing terms as nearly like the void, unlawful, or unenforceable provision as possible, or otherwise modified in such fashion as to preserve, to the maximum extent possible, the original intent of the Parties, and the Agreement, as so modified, shall continue to be in full force and effect; provided that the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any Applicable Law and the intent of the Parties.

22.10 ***Standard of Review***. The Parties specifically intend and acknowledge and agree that, except as otherwise expressly provided in this Agreement neither Party shall be permitted to make a filing with the FERC under any provision of the Federal Power Act or the regulations promulgated thereunder that seeks to amend or otherwise modify, or requests the FERC to amend or otherwise modify, any provision of this Agreement at any time during the Term, except to implement an amendment or other modification to this Agreement that has been reduced to writing and signed by authorized representatives of both Parties. In addition, to the extent any third party or the FERC acting sua sponte, seeks to amend or otherwise modify, or requests the FERC to amend or otherwise modify, any provision of this Agreement, the standard of review shall be the "public interest" 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) (the "Mobile-Sierra" doctrine).

22.11 ***Governing Law***. This Agreement shall be interpreted and enforced in accordance with the laws of the State of Washington without regard to its conflicts of laws provisions.

22.12 ***Consent to Jurisdiction***. Each of the Parties hereto hereby irrevocably consents and agrees that any legal action or proceedings with respect to this Agreement shall be brought exclusively in any of the courts of the United States of America located in the United States District Court for the Western District of Washington, having subject matter jurisdiction, or if such court lacks subject matter jurisdiction, then the state court for King County, Washington. By execution and delivery of this Agreement and such other documents executed in connection herewith, each Party hereby: (i) irrevocably agrees to be bound by any final judgment (after any and all appeals) of any such court with respect to such documents; (ii) irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceedings with respect to such documents brought in any such court; (iii) further irrevocably waives, to the fullest extent permitted by law, any claim that any such suit, action or proceedings brought in any such court has been brought in any inconvenient forum; and (iv) agrees that service of process in any such action may be effected by mailing a copy thereof by certified

mail, return receipt requested, postage prepaid, to such Party its address(es) set forth in Section 22.4, or at such other address of which the other Parties hereto shall have been notified; and agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law.

22.13 ***Waiver of Trial by Jury***. EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT.

22.14 ***Disputes***. In the event of any good faith dispute, controversy or claim between the Parties arising out of or relating to this Agreement (collectively, a "**Dispute**"), the Dispute shall be referred to the senior management of the Parties for resolution. If the Dispute has not been resolved within [redacted] after such referral to the senior management of the Parties, then either Party may pursue all of its remedies available in law or equity. The Parties agree to attempt to resolve all Disputes promptly, equitably and in a good faith manner, *provided, however*, that failure to resolve a Dispute shall not, standing alone, constitute a breach of this Agreement. Notwithstanding the existence of a Dispute, each Party shall fulfill its obligations in accordance with the terms hereof.

22.15 ***No Third-Party Beneficiaries***. Except as set forth in Article 16 (Indemnification), Section 18.6 (Waiver of Certain Damages), Section 22.2 (Assignment), Section 22.3 (Financing Liens), and this Agreement is intended solely for the benefit of the Parties hereto and nothing contained herein shall be construed to create any duty to, or standard of care with reference to, or any liability to, or any benefit for, any Person not a Party to this Agreement.

22.16 ***Relationship of the Parties***. This Agreement is not intended, and shall not be construed, to create any association, joint venture, agency relationship or partnership between the Parties or to impose any such obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act as or be an agent or representative of, or otherwise bind, the other Party.

22.17 ***Disclaimer***. This Agreement shall not be interpreted to create any ownership or proprietary rights in the Project in favor of Customer, and Customer hereby disclaims, any right, title or interest in any part of the Project.

22.18 ***Further Assurances***. Upon the receipt of a written request from the other Party, each Party shall execute such additional documents, instruments and assurances and take such additional actions as are reasonably necessary to carry out the terms hereof. Neither Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this Section 22.18.

22.19 ***Good Faith***. The Parties shall act in accordance with principles of good faith and fair dealing in the performance of this Agreement.

22.20 ***Forward Contract***. Each Party acknowledges and agrees that: (i) the transactions contemplated under this Agreement constitute "forward contracts" within the meaning of Title 11 of the United States Code (the "**Bankruptcy Code**"); (ii) Customer is a "forward contract merchant" within the meaning of the Bankruptcy Code; and (iii) Customer's rights under Section 17 of this Agreement constitute "contractual rights to liquidate" the transactions within the meaning of the Bankruptcy Code.

22.21 ***Captions; Construction***. All indexes, titles, subject headings, section titles, and similar items are provided for the purpose of reference and convenience and are not intended to affect the meaning of the content or scope of this Agreement. Any term and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any Party.

22.22 ***Entire Agreement***. This Agreement supersedes all other prior and contemporaneous understandings or agreements, both written and oral, between the Parties relating to the subject matter of this Agreement.

22.23 ***Counterparts; Electronic Delivery***. This Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including .pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com) or other similar transmission method, and any counterpart so delivered shall be deemed to have been duly and validly executed and delivered and be valid and effective for all purposes.

[Signature Page Follows]

IN WITNESS WHEREOF the Parties have executed this Agreement in the manner appropriate to each on the date set forth above.

ROYAL SLOPE SOLAR, LLC

By: _____
Name: [___]
Title: [___]

PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY

By: _____
Name: [___]
Title: [___]

ANNEX I

"**Affiliate**" shall mean, with respect to any Person, (i) each Person that directly or indirectly, Controls such designated Person; (ii) any Person that directly or indirectly owns, controls, or holds with power to vote fifty percent (50%) or more of any class of voting securities of such designated Person or fifty percent (50%) or more of the equity interest in such designated Person; (iii) any Person of which such designated Person beneficially owns or holds fifty percent (50%) or more of the equity interest or (iv) any Person that is under common control with such designated Person.

"**Agreement**" shall have the meaning set forth in the first paragraph hereof.

"**Ancillary Services**" shall mean those services which can be provided to or by the Project in addition to capacity and Project Energy, and which are described as "ancillary services" under any applicable OATT.

"**Applicable Law**" shall mean, with respect to any Person or the Project, all laws, statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, tariffs, regulations, Governmental Approvals, licenses and permits, directives and requirements of all regulatory and other Governmental Authorities as may be amended, in each case applicable to or binding upon such Person or the Project (as the case may be), including the standards and criteria of the NERC, FERC, the Western Power Pool, and WECC.

"**Applicable Market**" shall mean the grid, market, independent system operator, balancing authority, or regional transmission organization in which the Project is situated, or its successor, and which, as of the Effective Date, is the Bonneville Power Administration, along with (a) its tariffs, business practices, and other binding documents in each case as amended or supplemented from time to time; (b) any rules, regulations and orders issued by NERC and applicable to the Project, in each case as amended or supplemented from time to time; (c) all Applicable Market reliability requirements applicable to generator owners and generator operators; (d) all applicable requirements regarding interconnection of the Project, including the requirements of the Transmission Provider; and (e) all applicable Bonneville Power Administration policies as may be amended from time to time.

"**Applicable Market Penalties**" shall mean any scheduling penalties, balancing operating reserve charges, integration costs, imbalance penalties or other penalties, fees or charges as are now or at any time in the future assessed or imposed by any Person with authority over the Applicable Market (including NERC and the Balancing Authority) for failure to satisfy, or in accordance with, the Applicable Market.

"**Balancing Authority**" shall have the meaning set forth in the NERC Glossary of Terms and shall be designated by Seller from time to time in its sole discretion. The Balancing Authority in which the Project will participate initially will be the Bonneville Power Administration.

"**Bankruptcy Code**" shall have the meaning set forth in Section 22.20.

"**BESS ESA**" means that certain Energy Storage Services Agreement, dated as of [redacted] between the BESS Owner and Customer, pursuant to which the BESS Owner delivers and sells,

and Customer receives and purchases, certain energy storage products produced by the BESS Project.

"**BESS Owner**" means Royal Slope BESS, LLC, a Delaware limited liability company.

"**BESS Project**" shall mean that certain battery energy storage facility which is co-located with the Project and that shares interconnection capacity with the Project under the SISA. For the avoidance of doubt, the BESS Project shall include all systems and subsystems, including lighting, enclosures, computers, electronics, HVAC, fire systems, racking, and lithium-ion cells, directly relating or pertaining to the storage of Energy at the Site.

"**BPA Charges**" shall have the meaning set forth in Section 10.2.

"**Bureau of Reclamation Permits**" shall have the meaning set forth in Exhibit F.

"**Business Day**" shall mean every day other than a Saturday or Sunday or any other day on which banks in the State of Washington are permitted or required to remain closed.

"**CAISO**" shall mean the California Independent System Operator.

"**Capacity Attributes**" shall mean any and all present or future (known or unknown) defined characteristics, certificates, tags, credits, or Ancillary Service attributes, whether general in nature or specific as to the location or any other attribute of the Project, intended to value any aspect of the capacity of the Project to store Energy or produce Ancillary Services, including those in respect of the WRAP Program.

"**Change in Tax Law**" shall have the meaning set forth in Section 20.1.

"**Claim Notice**" shall have the meaning set forth in Section 16.4(a).

"**COD Delay Damages**" shall have the meaning set forth in Section 3.8.

"**Code**" means the Internal Revenue Code of 1986, as the same may be amended from time to time, including any amendments or any substitute or successor provisions thereto.

"**Commercial Operation Certificate**" has the meaning set forth in Exhibit E.

"**Commercial Operation Date**" or "**COD**" shall mean, with respect to the Project, that: (i) the Installed Capacity is not less than [redacted] of the Project, and is capable of delivery of Product to the Delivery Point pursuant to the terms of this Agreement; (ii) the Project has been fully tested and commissioned and all related facilities and rights have been completed or obtained to allow for normal and continuous operation of the Project at the Installed Capacity; (iii) Seller shall have delivered the true, correct, and complete Commercial Operation Certificate in the form of Exhibit E from Seller; and (iv) Seller shall have received all local, state, and federal Governmental Approvals and other approvals as may be required by Applicable Law for the construction, operation, and maintenance of the Project.

"**Compliance Action**" shall have the meaning set forth in Section 20.2.

"**Compliance Cost Cap**" shall have the meaning set forth in Section 20.2.

"**Compliance Costs**" shall have the meaning set forth in Section 20.2.

"**Confidential Information**" means information that one Party (or an Affiliate) discloses to the other Party under this Agreement, and that is marked as confidential or would normally be considered confidential information under the circumstances. It does not include information that is independently developed by the recipient, is rightfully given to the recipient by a third party without confidentiality obligations, or becomes public through no fault of the recipient.

"**Contract Date**" has the meaning set forth in the Preamble.

"**Contract Rate**" shall mean [redacted] (as such amount may be adjusted pursuant to Section 6.2).

"**Contract Records**" shall have the meaning set forth in Section 22.6.

"**Contract Year**" shall mean any consecutive twelve (12)-month period during the Term, commencing at 00:00 Pacific Prevailing Time on the Commercial Operation Date and ending at 24:00 Pacific Prevailing Time on the day before the first anniversary of the Commercial Operation Date, and each anniversary thereof.

"**Control**" of a Person, including the terms "controls," "is controlled by," and "under common control with," means the possession, directly or indirectly through one or more intermediaries, of (a) a voting interest of more than fifty percent (50%) in such Person, or (b) the power to either (i) elect a majority of the directors (or Persons with equivalent management power) of such Person, or (ii) direct or cause the direction of the management or policies of such Person, whether through the ownership of securities or partnership, membership or other ownership interests, by contract, by operation of law or otherwise.

"**Credit Rating**" means, with respect to any entity, the corporate credit or issuer rating then assigned to such entity's unsecured, senior long-term debt obligations (not supported by third-party credit enhancements) or, if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by the S&P, Moody's and/or Fitch.

"**Credit Support**" shall mean the Initial Development Security, the Secondary Development Security, or the Performance Security, or all or some of the foregoing, as the context may require.

"**Cumulative Deliverable Energy Report**" shall have the meaning set forth in Exhibit G.

"**Cumulative Maximum Deliverable Energy**" shall have the meaning set forth in Exhibit G.

"**Cumulative MP Hours**" shall have the meaning set forth in Section 14.1(c).

"**Customer**" shall have the meaning set forth in the first paragraph of this Agreement.

"**Customer Event of Default**" means an Event of Default of Customer.

"**Day**" or "**day**" shall mean a period of twenty-four (24) consecutive hours beginning at 00:00 hours Pacific Prevailing Time on any calendar day and ending at 24:00 hours Pacific Prevailing Time on the same calendar day.

"**DC Change Event**" shall have the meaning set forth in Section 6.2(b).

"**DC Event Certification**" shall have the meaning set forth in Section 6.2(b).

"**DC Event Notice**" shall have the meaning set forth in Section 6.2(b).

"**Defaulting Party**" shall have the meaning set forth in Section 18.2.

"**Delivery Point**" means the Vantage 230 kV Substation.

"**Delivery Term**" shall have the meaning set forth in Section 2.1.

"**Development Security**" shall mean either the Initial Development Security or the Secondary Development Security, as the context may require.

"**Diligence Period**" has the meaning set forth in Section 8.3.

"**Disclosing Party**" shall have the meaning set forth in Section 21.1.

"**Dispute**" shall have the meaning set forth in Section 22.14.

"**Domestic Content Tax Credits**" means Investment Tax Credits corresponding and attributable to the domestic content bonus credit pursuant to Section 48(a)(12) or 48E(a)(3)(B) of the Code.

"**Early Termination Date**" shall have the meaning set forth in Section 18.2(a).

"**EC Event Certification**" shall have the meaning set forth in Section 6.2(c).

"**EC Event Notice**" shall have the meaning set forth in Section 6.2(c).

"**Effective Date**" has the meaning set forth in Section 2.1.

"**Energy**" shall mean electric energy in the form of three (3) phase, sixty (60) Hertz, alternating current.

"**Energy Community Bonus Credits**" means Investment Tax Credits corresponding and attributable to the energy community bonus credit pursuant to Section 48(a)(14) or 48E(a)(3)(A) of the Code.

"**Energy Imbalance Market**" shall mean the California Independent System Operator's Western Energy Imbalance Market.

"**Event of Default**" shall have the meaning set forth in Section 18.1.

"**Excused Delay**" shall have the meaning set forth in Section 3.7.

"**Exercise Date**" shall have the meaning set forth in Section 8.3.

"**Exercise Notice**" shall have the meaning set forth in Section 8.1.

"**Fair Market Value**" shall have the meaning set forth in Section 8.2.

"**Federal Permits**" shall have the meaning set forth in Exhibit F.

"**Federal Power Act**" shall mean the Federal Power Act of 1935, 16 U.S.C. § 791a, et seq.

"**FERC**" shall mean the Federal Energy Regulatory Commission or any successor government agency.

"**Final Nameplate Capacity**" shall mean the actual nameplate capacity of the Project on the Commercial Operation Date or, subject to Section 3.9, the date that is [redacted] after the Commercial Operation Date.

"**Fitch**" means Fitch Ratings, Ltd., or its successor, or, in the event that there is no such successor, a nationally recognized credit rating agency.

"**Force Majeure**" shall have the meaning set forth in Section 19.4.

"**Forced Outage**" shall mean an Outage of the Project, or a portion thereof, that is not a Planned Outage. A Forced Outage shall not include an Outage that may be deferred to a Planned Outage consistent with Prudent Operating Practices and without causing or the reasonable likelihood of causing safety risk, damage to equipment or additional costs.

"**Generation Attribute**" shall mean any and all present or future (known or unknown) attributes associated with the capability of the Project to produce Project Energy or Ancillary Services or the generation of Project Energy including but not limited to current or future credits, credit privileges, emissions reductions, offsets, allowances, registrations, recordations, memorializations, and other benefits, rights, powers or privileges, however denominated, including as such may be provided for in any currently existing or subsequently enacted Applicable Law attributable to the Project or the Project Energy that Customer purchases from Seller hereunder, other than Capacity Attributes. Examples of Generation Attributes include, but are not limited to: RECs, the avoidance of the emission of any gas, chemical, pollutant, or other substance into the air, soil or water, or the reduction, displacement or offset of emissions resulting from fuel combustion at another location pursuant to any federal, state or local legislation or regulation addressing "greenhouse gases" or similar emissions, set-aside allowances and/or allocations from emissions trading programs, environmental or renewable energy credit trading program or any similar program now existing or hereafter developed under federal, state, local or foreign legislation or regulation or by any independent certification board or group generally recognized in the electric power industry. Generation Attributes include all rights to report ownership of any

of the foregoing to any entity, organization, governmental body, or otherwise at Customer's sole discretion.

"**Governmental Approvals**" shall have the meaning set forth in Section 3.2.

"**Governmental Authority**" shall mean any federal, state, local or municipal government, governmental department, city council, public power authority, public utility district, joint action agency, commission, board, bureau, agency, or instrumentality, or any judicial, regulatory or administrative body, having jurisdiction as to the matter in question, including the NERC, and FERC.

"**Guaranteed Commercial Operation Date**" shall mean [redacted], as may be extended in accordance with the terms of this Agreement, including pursuant to any Excused Delay.

"**Incentives**" shall mean (i) any and all present or future (whether known or unknown) local, state, and federal production tax credits, investment tax credits (including any ITCs), and any other tax credits or benefits which are or will be generated by the Project and/or the provision of the Product, and (ii) present or future (whether known or unknown) cash payments, alternative digital currencies or cryptocurrencies provided or made available by non-governmental entities to the Project, or outright grants of money relating in any way to the Project.

"**Indemnified Party**" shall have the meaning set forth in Section 16.4.

"**Indemnifying Party**" shall have the meaning set forth in Section 16.4.

"**Independent Engineer**" shall mean a licensed and registered professional engineering consulting firm selected by Seller from one or more of the following: [redacted]; or any other such firm selected by Seller subject to approval in advance by Customer (not to be unreasonably withheld).

"**Independent Valuator**" shall mean, as mutually agreed by the Parties, any independent internationally recognized investment bank, accounting firm or other recognized professional services firm that is regularly engaged in providing valuations of power projects comparable to the Project.

"**Initial Development Security**" shall have the meaning set forth in Section 9.1.

"**Installed Capacity**" shall mean, on any day, the aggregate capacity of the Project that (i) has been installed, commissioned and tested in accordance with the applicable manufacturer's requirements and engineering, procurement and construction contracts and (ii) is able to deliver Product to the Delivery Point through materially complete facility systems; provided, however, in no event shall the Installed Capacity be greater than the Final Nameplate Capacity.

"**Interconnection Agreement**" shall mean the Generator Interconnection Agreement to be entered into by and between Seller and Transmission Provider with respect to the Project, as amended from time to time.

"**Interconnection Agreement Counterparty**" shall mean any counterparty to the Interconnection Agreement and/or SISA, as applicable, other than Seller.

"**Interconnection Delay**" shall mean a delay in achievement of the Commercial Operation Date caused by an Interconnection Agreement Counterparty or Transmission Provider; provided, Seller has used commercially reasonable efforts to minimize any delays caused by such Interconnection Agreement Counterparty or Transmission Provider.

"**Investment Grade Credit Rating**" shall mean a Credit Rating by at least two ratings agencies equal to or better than "**BBB-**" by S&P, "**Baa3**" by Moody's or "**BBB-**" by Fitch.

"**Investment Tax Credit**" or "**ITC**" means the investment tax credit established pursuant to Section 48 or 48E of the Code.

"**Late Payment Rate**" shall have the meaning set forth in Section 7.3.

"**Lender**" means any person or entity (i) providing senior or subordinated construction, interim, back leverage or long-term debt, equity or tax equity financing or refinancing for or in connection with the development, construction, purchase, installation or operation of the Project, whether that financing or refinancing takes the form of private debt, equity, public debt or any other form (including financing or refinancing provided to a member or other direct or indirect owner of Seller), including any equity or tax equity investor directly or indirectly providing financing or refinancing for the Project or purchasing equity ownership interests of Seller and/or its Affiliates, and any trustee or agent acting on their behalf, (ii) providing interest rate or commodity protection under an agreement hedging or otherwise mitigating the cost of any of the foregoing obligations, (iii) participating in a lease financing (including a sale leaseback or leveraged leasing structure) with respect to the Project, and/or (iv) acting as issuing bank for any Letter(s) of Credit issued pursuant hereto.

"**Letter of Credit**" means an irrevocable, transferable, standby letter of credit, issued by a Qualified Institution substantially in the form of Exhibit C, or in any other form which is reasonably acceptable to the beneficiary thereof.

"**Market Value**" shall mean, (a) where the Defaulting Party is Customer, the excess, if any, of (i) the present value as of the Early Termination Date of payments that would have been made under this Agreement for the period from the Early Termination Date to the scheduled expiration of the Term, less (ii) the present value as of the Early Termination Date of payments that are to be made under a Replacement Contract (whether or not actually entered into by Seller) during its term and (b) where the Defaulting Party is Seller, the excess, if any, of (i) the present value as of the Early Termination Date of payments that are to be made under a Replacement Contract (whether or not actually entered into by Customer) during its term, less (ii) the present value as of the Early Termination Date of payments that would have been made under this Agreement for the period from the Early Termination Date to the then scheduled expiration of the Term.

"**Maximum Contract Rate**" shall have the meaning set forth in Section 6.2(d).

"**Maximum Contract Rate Termination**" shall have the meaning set forth in Section 6.2(d).

"**Measurement Period**" shall have the meaning set forth in Section 14.2.

"**Mechanical Availability Guarantee**" shall have the meaning set forth in Section 14.1.

"**Mechanical Excused Hours**" shall have the meaning set forth in Section 14.1(a).

"**Mechanical Unavailable Hours**" shall have the meaning set forth in Section 14.1(b).

"**Meter**" shall mean a settlement quality, utility grade instrument and associated equipment meeting applicable electric industry standards as established by CAISO for SQMD, National Electrical Manufacturers Association and American National Standards Institute and used to measure and record the quantity and the required delivery characteristics of Project Energy delivered hereunder. Metering equipment must meet requirements for the most recent version of the CAISO Business Practice Manual for Metering as it relates to the creation of SQMD.

"**Milestones**" shall have the meaning set forth in Section 3.5.

"**Monthly Payment**" shall have the meaning set forth in Section 6.1.

"**Moody's**" shall mean Moody's Investor Service, Inc. rating group, or its successor.

"**MW**" shall mean a megawatt of capacity.

"**MWh**" shall mean a megawatt-hour of Energy (rounded to the third decimal point).

"**NERC**" means the North American Electric Reliability Corporation.

"**Non-Defaulting Party**" shall have the meaning set forth in Section 18.2.

"**OATT**" shall mean a Transmission Provider's FERC-approved open access transmission tariff (or in the case of the Bonneville Power Administration, its equivalent tariff).

"**Operating Procedures**" shall have the meaning set forth in Section 11.2.

"**Option Period**" shall have the meaning set forth in Section 8.1.

"**Other Project(s)**" means the electrical energy generating or electric energy storage assets and related assets and entities, other than the Project and the BESS Project, using the Shared Facilities to enable delivery of energy from each such Other Project to the Delivery Point or other points of interconnection, together with all materials, equipment systems, structures, features, and improvements necessary to produce electric energy at each such other generating facility or charge and discharge energy at such other energy storage facility, but with respect to the Shared Facilities, excluding Seller's interest therein.

"**Other Seller(s)**" means the seller(s) from the Other Project(s), including the BESS Owner.

"**Outage**" means any period where the capacity of the Project is unavailable for any reason.

"**Outside Commercial Operation Date**" has the meaning set forth in Section 2.3(d).

"**Pacific Prevailing Time**" or "**PPT**" shall mean the prevailing time in the eighth time zone west of Greenwich Mean Time.

"**Parties**" shall have the meaning set forth in the first paragraph of this Agreement.

"**Party**" shall have the meaning set forth in the first paragraph of this Agreement.

"**Performance Security**" shall have the meaning set forth in Section 9.2.

"**Person**" shall mean an individual, partnership, corporation, business trust, joint-stock company, trust, unincorporated association, joint venture, Governmental Authority, limited liability company or any other entity of whatever nature.

"**Planned Nameplate Capacity**" shall mean 260 MW.

"**Planned Outage**" shall mean the removal of equipment from service availability for inspection, maintenance and/or general overhaul of one or more pieces of equipment or equipment groups that affects the Product.

"**Pre-COD Termination Payment**" shall have the meaning set forth in Section 2.3(f).

"**Prime Rate**" shall mean the rate of interest per annum from time to time published in the money rates section of The Wall Street Journal or any successor publication thereto as the "prime rate" then in effect; provided that, in the event such rate of interest is less than zero, such rate shall be deemed to be zero for purposes of this Agreement; and provided further that if such rate of interest, as set forth from time to time in the money rates section of The Wall Street Journal,

becomes unavailable for any reason, the "Prime Rate" shall mean a successor rate of interest per annum mutually agreed to as between Customer and Seller.

"**Product**" means all Ancillary Services, Generation Attributes, and Capacity Attributes generated by or otherwise associated with the Project.

"**Product Qualification Cost Cap**" shall have the meaning set forth in Section 4.4.

"**Product Qualification Costs**" shall have the meaning set forth in Section 4.4.

"**Project**" shall mean the solar photovoltaic generation facility to be located at the Site, including necessary ancillary electrical, metering, SCADA System and control equipment, Seller's Interconnection Facilities and any and all additions, replacements or modifications hereto. The final design and specifications of the Project will be chosen from the configurations set forth in Exhibit A hereto pursuant to the terms of Section 3.3 hereof.

"**Project Assets**" shall have the meaning set forth in Section 8.1.

"**Project Energy**" means Energy generated by the Project and delivered to Customer at the Delivery Point in accordance with the terms of this Agreement.

"**Prudent Operating Practices**" shall mean the practices, methods and standards of professional care, skill and diligence engaged in or approved by a significant portion of the electric generation industry for solar generation facilities in the U.S. of similar size, type, and design, that, in the exercise of reasonable judgment, in light of the facts known at the time, would have been expected to accomplish results consistent with Applicable Law, reliability, safety, environmental protection and reasonable standards of economy and expedition.

"**Purchase Option**" shall have the meaning set forth in Section 8.1.

"**Qualified Institution**" means a commercial bank or trust company organized under the laws of the United States or a political subdivision thereof, or a United States branch office of a Japanese, Canadian, or Australian bank, which (i) has an Investment Grade Credit Rating, and (ii) has a net worth of at least Ten Billion Dollars ($10,000,000,000) at the time of issuance of a Letter of Credit.

"**Receiving Party**" shall have the meaning set forth in Section 21.1.

"**Replacement Contract**" shall mean a contract for the purchase and sale of capacity from an solar photovoltaic generating facility that (i) is entered into with a counterparty that has the same or similar creditworthiness as the Defaulting Party hereunder as of the Effective Date (or a counterparty whose obligations under the Replacement Contract are guaranteed by an entity with such creditworthiness), (ii) has a term substantially the same as the remaining unexpired portion of the Term, (iii) provides for the Product associated with the production of the energy to be transferred to the energy customer under such contract, and (iv) has an output point of interconnection that is the same as or substantially similar to the Delivery Point hereunder, it being understood that commercially reasonable adjustments to the price under such contract shall be made to take into account, among other possible commercially material differences, differences

due to length of term, capacity factors, products sold, and the location of the point of interconnection under the Replacement Contract compared to the Delivery Point hereunder.

"**Required Permits**" shall have the meaning set forth in Section 3.2.

"**Required Permits Deadline**" shall have the meaning set forth in Section 3.2.

"**Required Permits Rejection**" shall have the meaning set forth in Section 3.2.

"**Retention Period**" shall have the meaning set forth in Section 22.6.

"**S&P**" shall mean Standard & Poor's rating group (a division of McGraw-Hill, Inc.), or its successor.

"**SCADA System**" means the Project's supervisory control and data acquisition system.

"**Secondary Development Security**" shall have the meaning set forth in Section 9.1.

"**Seller**" shall have the meaning set forth in the first paragraph of this Agreement.

"**Seller Event of Default**" means an Event of Default of Seller.

"**Seller's Check Meters**" shall have the meaning set forth in Section 12.1(c).

"**Seller's Interconnection Facilities**" shall mean the interconnection facilities, control and protective devices and metering facilities required to connect the Project with the Transmission Provider's Transmission System up to, and on Seller's side of, the Delivery Point.

"**Seller's Offer**" shall have the meaning set forth in Section 2.4.

"**Seller's Primary Meter**" shall mean the Meter installed to reflect the Project Energy delivered to the Delivery Point.

"**Shared Facilities**" means the gen-tie lines, substations, or other equipment, permits, contract rights, and other assets and property (real or personal), in each case, as necessary to enable delivery of Project Energy from the Project (which is excluded from "Shared Facilities") to the Delivery Point or other points of interconnection, that are used in common with the Project and any Other Project(s).

"**Shared Facilities Agreement**" shall have the meaning set forth in Section 10.1(a).

"**Site**" shall mean the real property on which the Project is to be built and located, as further described in Exhibit A.

"**Station Service**" means, the electric energy that is used to power certain lights, motors, temperature control systems, control systems and other ancillary electrical loads that are necessary for operation of the Project (or as otherwise defined by the retail energy provider). Seller is solely responsible for Station Service.

"**Surety Bond**" means a bond that is issued by a surety or insurance company with, in either case, a Credit Rating of at least "A-" by S&P or "A3" by Moody's, substantially in the form of Exhibit D or such other form reasonably acceptable to the beneficiary.

"**System Emergency**" shall mean an "Emergency Condition" (as defined in a Transmission Provider's OATT).

"**Term**" shall have the meaning set forth in Section 2.1.

"**Termination Payment**" shall have the meaning set forth in Section 18.5(a).

"**Test Energy**" shall have the meaning set forth in Section 5.1.

"**Test Energy Period**" shall have the meaning set forth in Section 5.1.

"**Trade Event**" means [redacted]

"**Trade Event Certification**" shall have the meaning set forth in Section 6.2(a).

"**Trade Event Certified Costs**" shall have the meaning set forth in Section 6.2(a).

"**Trade Event Cost Cap**" shall have the meaning set forth in Section 6.2(a)(ii).

"**Trade Event Notice**" shall have the meaning set forth in Section 6.2(a).

"**Trade Event Termination**" shall have the meaning set forth in Section 6.2(a)(ii).

"**Transmission Point of Receipt**" means the applicable point of receipt for delivery of transmission service from the Transmission Provider to the Project, as set forth in the applicable transmission service agreement. As of the Effective Date, the Transmission Point of Receipt is the Rocky Ford Substation.

"**Transmission Provider**" shall mean Bonneville Power Administration and/or any other entity (or its designated agent) that owns, controls, or operates transmission or distribution facilities used for the transmission of electricity under this Agreement anywhere from source to sink, provides service under a tariff (including, in the event of a pseudo-tie of the Project in Customer's distribution system or similar arrangement, Customer), or a regulatory body that regulates such entity.

"**Transmission Provider's Transmission System**" shall mean the facilities for the transmission of Project Energy from and after the Delivery Point.

"**Washington State and Local Sales and Use Taxes**" means Washington state and local retail sales and use taxes (including Washington State Retail Sales Taxes) imposed pursuant to RCW 82.08, RCW 82.12 or RCW 82.14, if any, and other substantially similar sales and use taxes imposed under Washington state or local law (including, by reason of a change in Applicable Law) which, for purposes of clarity, the Parties specifically agree shall not include any business and occupation taxes.

"**WECC**" shall mean the Western Electricity Coordinating Council.

"**WRAP Program**" shall mean the Western Resource Adequacy Program administered by the Western Power Pool.

EXHIBIT A

DESCRIPTION OF THE PROJECT

I. Project Description

Project Name: Royal Slope PV

Planned Nameplate Capacity: 260 MW

Owner: Royal Slope Solar, LLC

Location: 46.893178 deg N, 11987835 deg W

Description of the Site: [redacted]

Description of Equipment:

PV Modules: [redacted]

Inverters: [redacted]

Main Power Transformer: [redacted]

II. Production P50 Table

Royal Slope Energy Production 12x24 (AVG. MW)												
Month Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
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III. Site Map


Highway 24 W
Highway 24 W
Highway 43 S
Highway 43 S
Road 11 S SW
Road 13 SW
Road 1
Warapuna Ln
Beverly Burke Rd S
Beverly Burke Rd S
Esri Comm

EXHIBIT B

FORM OF LETTER OF CREDIT

IRREVOCABLE STANDBY LETTER OF CREDIT

Issuing Bank: _____

Date and Place of Issue: _____, 20__
New York, NY

Letter of Credit No.: _____

Stated Amount: US $ _____ (AMOUNT IN WORDS United States Dollars)

Expiration Date: _____, 20__

Beneficiary's Name and Address: NAME and ADDRESS
("Beneficiary")

Applicant's Name and Address: Clearway Energy Group LLC on behalf of SUB
100 California Street, Suite 650
San Francisco, CA 94111
("Applicant")

To Beneficiary:

We hereby issue this irrevocable standby letter of credit no._____ ("Letter of Credit") in your favor for the account of the Applicant for payment at sight up to the aggregate amount stated above ("Stated Amount"). Drawing(s) made under and in accordance with the terms and conditions of this Letter of Credit will be duly honored. This Letter of Credit is effective as of DATE.

Funds under this Letter of Credit, in an amount not to exceed the Stated Amount, will be made available to you upon your presentation of a statement ("Beneficiary Statement") purportedly signed by an authorized officer of Beneficiary stating:

1. "Pursuant to [insert either (i) LAW/REGULATION SPECIFICS or (ii) the NAME OF CONTRACT(S) between SUB and Beneficiary], SUB's payment to Beneficiary of $[_____] is due and owing. Wherefore, Beneficiary hereby demands payment of the above referenced amount under Letter of Credit no. ____."

Or

2. "This Letter of Credit No. _____ will expire in less than thirty (30) days, Beneficiary has not received an extension of said Letter of Credit or other acceptable replacement collateral, and SUB's ("SUB") failure to provide this Letter of Credit and/or acceptable collateral would be [insert either (i) a violation of LAW/REGULATION SPECIFICS or (ii) an Event of Default under NAME OF CONTRACT(S) between SUB and Beneficiary]. Wherefore, Beneficiary hereby demands payment of $[_____], to be held as collateral until Beneficiary is provided with a new letter of credit or other acceptable collateral."

Special Conditions

1. Payment under this Letter of Credit will be effected per your instructions against a Beneficiary Statement presented at ("Place of Presentation"). Such presentation may be made (i) in person, (ii) by first class certified and registered U.S. mail, or (iii) by overnight mail.

2. Partial and/or Multiple drawings are permitted. Such partial drawings shall reduce the amount thereafter available for drawing under this Letter of Credit.

3. [OPTIONAL]This Letter of Credit shall be deemed automatically extended without amendment for an additional period of twelve (12) months from the then-current Expiration Date, unless Issuing Bank notifies Beneficiary at least sixty (60) days prior to such Expiration Date that Issuing Bank elects not to extend the Letter of Credit for an additional period.

4. This Letter of Credit will terminate at 5:00 PM New York time on the earlier of (i) the Expiration Date, (ii) the date of surrender by you of this Letter of Credit for cancellation, and (iii) the date of our honoring of drawing(s) under this Letter of Credit that, in the aggregate, equal the Stated Amount.

5. All Issuing Bank charges are for the account of Applicant.

6. This Letter of Credit shall not be amended except with the written concurrence of Beneficiary, Applicant, and Issuing Bank.

7. Any communications to us with respect to this Letter of Credit shall be addressed to the Place of Presentation and refer to "Letter of Credit No. _____."

8. Unless otherwise expressly stated herein, this Letter of Credit is governed by the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600 ("UCP"). As to matters not governed by the UCP, this Letter of Credit is governed by the laws of the State of New York.

9. The following Articles under UCP are modified as follows:

(i) Article 14(b) is modified such that the issuing bank shall have a maximum of three (3) banking days following the day of presentation to determine if a presentation is complying; and

(ii) Article 36 is amended such that if the Letter of Credit expires while the Place of Presentation is closed due to events described in said Article, then the Expiration Date of this Letter of Credit shall be automatically extended without amendment to a date thirty (30) calendar days after the Place of Presentation reopens for business.

Very truly yours,

[_____]

EXHIBIT C

FORM OF SURETY BOND

Bond Number:

SURETY BOND

KNOW ALL MEN BY THESE PRESENTS;

That we as Principal, and a corporation of the State of _____, as Surety, are held and firmly bound unto , as Obligee, in the full and just sum of and No/100 DOLLARS ( ), lawful money of the United States of America, to the payment of which sum, well and truly be made, the Principal and Surety bind themselves, and each of their heirs, administrators, executors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a _____ Agreement (the Agreement), dated _____, with the Obligee for construction of _____ as further defined in said Agreement, which Agreement is hereby referred to and made a part hereof.

NOW, THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that if the Principal shall perform construction activities as fully described in said agreement, for which a bond must be posted, and shall reimburse said Obligee all loss and damage which said Obligee may sustain by reason of failure or default on the part of said Principal, then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that this bond is executed by the Principal and Surety and accepted by the Obligee subject to the following express conditions:

1. Notwithstanding the fact that the term of the Agreement is from to , it is understood by all parties to the Agreement that this bond may be canceled by Surety by giving (120) one hundred twenty days notice by certified mail to the Obligee. It is understood and agreed that the Obligee may recover the full amount of the Bond (less any previous amounts paid to the Obligee under the Bond) if the Surety cancels or non-renews the Bond and, within thirty (30) days prior to the effective date of the cancellation or non-renewal, the Obligee has not received collateral acceptable to it to replace the Bond, in accordance with the Agreement. The Surety shall have the right to rescind its cancellation any time during this 30-day period.

2. In the event of a default by the Principal in the performance of the Agreement during the term of this bond, the Surety shall be liable only for payment of the loss to the Obligee due to its incurred cost to complete the principal's obligation under the Agreement, reasonable attorney's fees and enforcement costs, which occurred during the effective period of the bond, up to the maximum penalty of this bond.

3. No claim, action, suit, or proceeding, except as hereinafter set forth, shall be had or maintained against the Surety on this instrument unless same be brought or instituted upon the Surety within one year from termination or expiration of the bond term.

4. No right of action shall accrue on this bond to or for the use of any person or corporation other than the Obligee named herein or the heirs, executors, administrators or successors of the Obligee.

5. No modification of the Agreement guaranteed by this bond shall be binding on the Surety or covered by this bond without the written consent of the Surety.

6. This bond shall not bind the Surety unless the bond is accepted by the Obligee. The acknowledgment and acceptance of such bond is demonstrated by signing where indicated below. If this obligation is not accepted by way of signature of the Obligee below, this bond shall be deemed null and void.

7. No later than ten (10) Business Days after Surety receives from Obligee a demand notice, substantially in the form attached hereto as Attachment A ("Demand Notice"), Surety shall pay to Obligee, by wire transfer of immediately available funds, the amount specified by Obligee in such demand notice.

Signed and sealed this day of , _____.

Principal

By:_____

By:_____

Surety

By:_____
Attorney-In-Fact

The above terms and conditions of this bond have been reviewed and accepted by _____, the Obligee.

Acknowledged and Accepted:
By: _____
Printed Name: _____
Title: _____
Date: _____

ATTACHMENT A TO SURETY BOND NO. [_____]
FORM OF DEMAND NOTICE

[Obligee's Name]
[Obligee's Address]
[Date]

[Surety's name
Surety's address]

Re: Demand Notice under Surety Bond, No. [____], dated and effective as of [Effective Date of Bond] ("Bond"), entered into by [ ] ("Surety") and [_____] ("Principal") and issued by Surety on behalf of Principal in favor of [ ] ("Obligee").

Ladies and Gentlemen:

This letter constitutes Obligee's Demand Notice to Surety in accordance with the Bond. All capitalized terms used and not otherwise defined in this Demand Notice have the meanings assigned to them in the Bond.

[Insert one or both of the following two paragraphs, as applicable:

The undersigned hereby certifies to Surety that ($[dollar amount]) is due and owing from Principal to Obligee under the terms of the [name of contract between Obligee and Principal]. Obligee hereby demands payment from Surety in the amount of $[dollar amount].

- or -
The undersigned hereby certifies to Surety that, as of the close of business on [date less than thirty (30) days before the expiration of the Bond], Principal has failed to replace the Bond in satisfaction of the credit requirements established by the [name of contract between Obligee and Principal]. Obligee hereby demands payment from Surety in the amount of $[dollar amount].]

Please pay this amount in accordance with the following payment instructions no later than ten (10) Business Days after your receipt of this Demand Notice.

[Obligee's wire transfer instructions]

Sincerely,

[Obligee]

By: _____
Name: [Authorized representative's name]
Title: [Authorized representative's title]

EXHIBIT D

COMMERCIAL OPERATION CERTIFICATE

This Commercial Operation Certificate ("**Certificate**") is delivered by Royal Slope Solar, LLC ("**Seller**") to Public Utility District No. 2 of Grant County ("**Customer**") in accordance with the terms of that certain Power Purchase Agreement dated as of [___] by and between Customer and Seller (the "**Agreement**"). All capitalized terms not otherwise defined herein shall have the meaning given to them in the Agreement.

Seller hereby certifies that:

1. The Installed Capacity of the Project is **[___]** MW_{AC}.

2. Except for punch list items that would not materially affect the performance, reliability, or safe operation of the Project, the same has been erected and installed by the respective suppliers in accordance with the material applicable specifications under the respective supply agreements, and is ready for receipt of Project Energy from and to the Delivery Point in compliance with all Applicable Laws and Governmental Approvals.

3. Except for punch list items that would not materially affect the performance, reliability, or safe operation of the Project, as required under the Agreement, all requirements necessary to achieve commercial operability thereof have been substantially completed.

4. Seller has obtained all Governmental Approvals necessary for the Project to continuously store and receive at and deliver Project Energy to the Delivery Point and the same is in compliance with all such Governmental Approvals and all other Applicable Laws in all material respects.

5. All necessary arrangements for the prudent and proper operation and maintenance of the Project have been put in place and are in full force and effect.

6. Seller has a valid leasehold or real property interest in the Site for a term of at least [twenty (20)] years from the Commercial Operation Date.

Executed this [__] day of [_____], 202[__]

ROYAL SLOPE SOLAR, LLC
a Delaware limited liability company
By:

Name:
Title:

EXHIBIT E

MILESTONE SCHEDULE

MILESTONE	DATE
Required Permits Deadline:	[redacted] (as such date may be extended pursuant to the terms of this Agreement)
Guaranteed Commercial Operation Date:	[redacted] (as such date may be extended pursuant to the terms of this Agreement)
Outside Commercial Operation Date:	[redacted] (as such date may be extended pursuant to the terms of this Agreement)

EXHIBIT F

REQUIRED PERMITS; OTHER GOVERNMENTAL APPROVALS

I. Required Permits (subject to Section 4.2):

II. Ministerial Permits:

Routine, non-discretionary approvals that are granted upon demonstration of compliance with technical or administrative standards. Examples include:

- Building permits
- Electrical permits
- Road approach/access permits
- Dust control permits
- Fire safety plan review

III. All Other Governmental Approvals

Water rights or transfers

EXHIBIT G

CUMULATIVE MAXIMUM DELIVERABLE ENERGY

Overall Summary

Within thirty (30) days of the end of each Measurement Period, Seller shall prepare a report (the "**Cumulative Deliverable Energy Report**") setting forth the maximum cumulative Project Energy that could have been delivered during such Measurement Period, measured in MWh (such amount, the "**Cumulative Maximum Deliverable Energy**"). The Cumulative Deliverable Energy Report shall use 5-minute data from the SCADA System and shall set forth the irradiance, module surface temperature (MST), and actual Project Energy that is generated during the Measurement Period. The Cumulative Deliverable Energy Report will include the mentioned data for every 5-minute timestamp throughout the Measurement Period.

The Cumulative Deliverable Energy Report will leverage real-time empirical data from on-Site data acquisition software (DAS) through a variety of IT solutions including but not limited to Bazefield Monitoring and Analytics platform, Microsoft SQL server, and a 24-7 human-attended real time performance monitoring center (RPMC). This leveraged data is filtered (cleaned) to exclude bad data, but occasional erroneous values might pass through the data cleaning stage.

Summary of Methodology Steps:

For every individual timestamp during the Measurement Period:

- The power curve ("**Power Curve**") is derived from the median Project Energy output of the inverters for every 10 W/m2 irradiance and 1 deg C MST measurement. Pass each irradiance and MST measurement through the Power Curve to locate the corresponding possible power value from the Power Curve. Store that value as the inverter's possible power ("**Inverter Possible Energy**").
- Sum every Inverter Possible Energy to determine the cumulative possible power for the Project during the applicable timestamp (such amount, the "**Project Possible Energy**"), which shall be adjusted for AC losses by a factor of 1.5%.
- Sum all Project Possible Energy amounts across all timestamps during the Measurement Period to determine the Cumulative Maximum Deliverable Energy.

Data Gaps

Irradiance and MST data in the Cumulative Deliverable Energy Report will use on-Site irradiance and MST sensors. The median irradiance/temperature for the Site will be substituted for any missing individual sensor data. In the event of total loss of communication with the sensors, a forecasted irradiance measurement will be used from an industry standard weather forecasting service (i.e., NOAA).

Power Curve Creation

The Power Curve is a transfer function between the observed irradiance, temperature and actual power. The Power Curve is created using observed irradiance, temperature, and actual Project

Energy delivered during the applicable Measurement Period. Data gap issues are excluded from the creation of these Power Curves.

Power Curve Data Gap Issues

If inadequate sample size is present for a specific irradiance or temperature bin while generating the Power Curves, then the previous Measurement Period shall be used to create the Power Curve. In the event of long-term communication issues for a specific inverter, the median of the other inverters at the Site will be used for that inverter's Power Curve.

For Commission Review 10/15/2025

Motion authorizing the General Manager/CEO, on behalf of Grant PUD, to execute Contract No. 110-13105 for proposed 20 year purchased power agreement (PPA) with Royal Slope Bess, LLC ("Royal Slope") for a 260 MW solar project and 260 MW / 1,040 MWh four-hour battery, commencing no earlier than March 31, 2028.

xxxx

M E M O R A N D U M **Date** 10/1/2025

TO: John Mertlich, General Manager

FROM: Mike Bradshaw, Sr. Manager Trading and Commercial Operations

VIA: Jeff Grizzel, SVP Power and Market Operations JG
JG
Rich Flanigan, VP Energy Supply and Markets

SUBJECT: Proposed 20-Year Purchase Power Agreements with Royal Slope Solar LLC, and Royal Slope BESS, LLC

Purpose: To request Commission approval for the General Manger to execute 20-year Purchase Power Agreements ("PPAs") with Royal Slope Solar, LLC (contract #110-13104) for a 260 MW solar project and Royal Slope BESS, LLC (contract #110-13105) for a 260 MW / 1,040 MWh four-hour battery project. Both projects commence no earlier than March 31, 2028.

Discussion: Grant PUD staff recommends entering into PPAs with Royal Slope Solar, LLC and Royal Slope BESS, LLC ("Royal Slope") for the full output of a 260 MW solar project and a co-located 260 MW / 1,040 MWh four-hour battery for 20-year terms beginning no earlier than March 31, 2028. Royal Slope participated in Grant's recent All Source Request For Proposal (RFP). The RFP was performed to help Grant identify resources that will help meet its Integrated Resource Planning needs related to capacity planning for joining the Western Resource Adequacy Program (WRAP) and clean energy needs to help meet Washington state's Clean Energy Transformation Act (CETA).

The Product. Grant will receive 100% of the energy, capacity, storage, environmental attributes and ancillary services from the Royal Slope solar project and battery. The Royal Slope projects are in BPA's Balancing Authority Area and co-located northeast of Wanapum dam, in Grant County. The projects will be interconnected to BPA's Vantage substation and energy output will be delivered to Grant PUD's Rocky Ford substation using BPA transmission.

The Process. In the fall of 2023, Grant issued an All-Source Energy and Capacity Request For Proposal intended to help Grant meet three primary objectives; 1) get a better understanding of a very competitive market for power supply, 2) focus on finding long-term clean energy solutions to meet Grant's growing retail load, and 3) let developers know that Grant was looking for capacity and energy to help meet its Integrated Resource Planning needs.

Grant received a strong response to the RFP with 82 proposals submitted. The RFP team scored these proposals using the following evaluation criteria; 70% based on the economic value, 15% on the risk assessment, and 15% on the strategic fit. From this initial evaluation, the Royal Slope projects scored outside the top quartile, but because other projects initially in the top quartile dropped out, these

projects were identified for further review. During this review, it was determined to move forward into the contracting phase for these projects.

Contract Review: An extensive internal review process was again used to construct the final agreements. There was an internal review by subject matter experts from Finance, Accounting, Dispatch, Control Systems Engineering, Compliance, and Risk. In addition, internal and external legal have reviewed the final contract.

Justification: The proposed PPA helps meet two of Grant's Strategic Pillars; Strategic Pillar #2, Develop and Execute Strategies that help prepare the PUD for the changing electric power utility industry inclusive of the risk considerations and Strategic Pillar #4, Develop an Intentional Demand Strategy. In addition, the Royal Slope projects help Grant in sourcing appropriate and sufficient power to provide reliable service and positions Grant PUD in meeting future clean energy standards outlined in Grant's 2024 Integrated Resource Plan (IRP).

Recommendation: Commission gives approval to the General Manger to execute 20-year Purchase Power Agreements with Royal Slope Solar, LLC (contract 110-13104) and with Royal Slope BESS, LLC (contract 110-13105).

Legal Review: See attached e-mail(s).

Signature: Jeffrey Grizzel (Oct 31 2025 07:45:23 PDT)

Email: Jgrizzel@gcpud.org

Commission Memo for 20-Year PV and Battery PPA with Royal Slope

Final Audit Report 2025-10-03

Created:	2025-10-02
By:	Erin Omlin (eomlin@gcpud.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAijCbS8Yikh3qzAF8Xm5pC-Lb3-Ofj2KW

"Commission Memo for 20-Year PV and Battery PPA with Royal Slope" History

Document created by Erin Omlin (eomlin@gcpud.org)
2025-10-02 - 10:49:12 PM GMT

Document emailed to Jeffrey Grizzel (Jgrizzel@gcpud.org) for signature
2025-10-02 - 10:49:42 PM GMT

Email viewed by Jeffrey Grizzel (Jgrizzel@gcpud.org)
2025-10-03 - 2:45:07 PM GMT

Document e-signed by Jeffrey Grizzel (Jgrizzel@gcpud.org)
Signature Date: 2025-10-03 - 2:45:23 PM GMT - Time Source: server

Agreement completed.
2025-10-03 - 2:45:23 PM GMT

[redacted]

ROYAL SLOPE

ENERGY STORAGE SERVICES AGREEMENT

Between

PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY

as Customer

and

ROYAL SLOPE BESS, LLC

as Seller

dated as of

[_____], 2025

GRANT COUNTY, WA

Confidential

Table of Contents

Page

Attachments:

Annex I	-	Definitions
Exhibit A	-	Description of the Project
Exhibit B	-	Storage Services and Operating Parameters
Exhibit C	-	Form of Letter of Credit
Exhibit D	-	Form of Surety Bond
Exhibit E	-	Form of Commercial Operation Certificate
Exhibit F	-	Milestone Schedule
Exhibit G	-	Performance Testing & Performance Guarantees
Exhibit H	-	Required Permits; Other Governmental Approvals

Confidential

ENERGY STORAGE SERVICES AGREEMENT

This ENERGY STORAGE SERVICES AGREEMENT (this "**Agreement**") is made this **[___]** day of **[___]**, 2025 (the "**Effective Date**"), by and between Public Utility District No. 2 Grant County, a public utility district organized under the laws of Washington ("**Customer**") and Royal Slope BESS, LLC, a Delaware limited liability company ("**Seller**"). Customer and Seller are each individually referred to herein as a "**Party**" and collectively as the "**Parties**".

W I T N E S S E T H:

WHEREAS, Seller intends to construct, own, and operate a 260 MW_{AC}/1040 MWh battery energy storage facility which is co-located with the Solar Project (as defined below), as more particularly described in Exhibit A (the "**Project**"); and

WHEREAS, Seller desires to sell and provide to Customer, and Customer desires to purchase and receive from Seller, the Capacity Attributes of the Project, and Customer desires to provide the electricity to charge the Project from the Solar Project and to receive the electricity discharged by the Project, together with the Ancillary Services (defined below) and other Storage Services (defined below) from the Project purchased by Customer from Seller, in each case pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, the Parties hereto, for good and sufficient consideration, the receipt of which is hereby acknowledged, intending to be legally bound, do hereby agree as follows:

ARTICLE 1
GENERAL TERMS AND CONDITIONS

1.1 ***Definitions***. The capitalized terms in this Agreement shall have the meanings set forth herein, including in the definitions attached and incorporated hereto as Annex I, whether singular or plural or in the present or past tense.

1.2 ***Interpretation.***

(a) Any reference to an agreement or document (including those set forth electronically on an internet web site) or a portion or provision thereof shall be construed as a reference to same as has been, or may be, amended, supplemented or otherwise modified and in effect from time to time;

(b) Any reference to Applicable Law and to terms defined in, and other provisions of, Applicable Law (including those set forth electronically on an internet web site) shall be references to the same (or a successor to the same) as has been, or may be, amended, supplemented or otherwise modified and in effect from time to time during the Term;

(c) Any reference to a Person or entity shall include that Person or entity's successors and permitted assigns;

(d) Any reference to a Governmental Authority shall be construed as including a reference to any Governmental Authority succeeding to all or a portion of its functions and capacities during the Term;

(e) Any reference to a particular Article, Section, Exhibit or Annex shall be a reference to the relevant Article of, Section of, Exhibit to, or Annex to, this Agreement, unless specifically noted otherwise;

(f) The words "herein," "hereafter," "hereunder" and similar words shall be construed as a reference to this Agreement as a whole and not to any particular portion or provision of this Agreement;

(g) Words in the singular may be interpreted as referring to the plural and vice versa, and words denoting natural persons may be interpreted as referring to other types of Persons and vice versa;

(h) All accounting terms not specifically defined herein shall be construed in accordance with generally accepted accounting principles in the United States of America, consistently applied;

(i) References to "dollars"; "$"; "Dollars" or other similar verbiage shall refer to the legal tender of the United States of America;

(j) References to this Agreement shall include a reference to all appendices, annexes, schedules and exhibits hereto, as the same may be amended, modified, supplemented or replaced from time to time;

(k) The masculine shall include the feminine and neuter and vice versa;

(l) Whenever this Agreement refers to a number of days, such number shall refer to the number of calendar days unless Business Days are specified. A requirement that a payment be made (or an obligation be performed or a requirement be satisfied) on or by a day that is not a Business Day shall be construed as a requirement that the payment be made (or obligation be performed or requirement be satisfied) on or by the next following Business Day; and

(m) Whenever the term "include," "includes" or "including" is used herein, such term shall be deemed to be followed by the words "without limitation" and construed as being illustrative and inclusive of but not exhaustive or limited to the items that follow.

ARTICLE 2
PROVISION OF STORAGE SERVICES; OPERATION

2.1 ***Purchase and Sale of Product.***

(a) Generally. In accordance with the terms and conditions of this Agreement, commencing on the Commercial Operation Date and continuing through the Term, Seller shall sell and deliver all Products to Customer, and Customer shall purchase and accept

from Seller, all of such Products in accordance with the terms of this Agreement. Notwithstanding the foregoing, Customer shall be responsible for supplying the Charging Energy for any Storage Service. Seller is required to operate the Project in a manner that is consistent with the Prudent Operating Practices.

2.2 ***Monthly Payment; Contract Rate Adjustments***.

(a) Monthly Payment. On a monthly basis during the Delivery Term, Customer shall pay Seller a monthly payment for all Product delivered hereunder (each, a "**Monthly Payment**"), which shall be calculated by *multiplying* (i) [redacted].

(b) Trade Event. Upon the occurrence of a Trade Event, Seller shall promptly provide written notice thereof to Customer (a "**Trade Event Notice**"). The Trade Event Notice shall contain a summary of the impact of the Trade Event on the Project and a certification from an officer of Seller (the "**Trade Event Certification**") of the anticipated economic impact and increased cost (in dollars) of the Trade Event on the Project (the "**Trade Event Certified Costs**"). To the extent not reasonably ascertainable at the time the Trade Event Notice is delivered, Seller shall promptly provide a Trade Event Certification when the Trade Event Certified Costs are reasonably ascertainable. Upon delivery of a Trade Event Certification, and subject to the limitations set forth in Sections 2.2(b)(ii) and 2.2(e), the Contract Rate shall be automatically adjusted pursuant to the following:

(i) If the aggregate Trade Event Certified Costs over the Term are greater than or equal to [redacted] the Contract Rate shall be automatically increased at a rate of [redacted]; provided, in no event shall the Contract Rate be increased by more than [redacted] in the aggregate over the Term.

(ii) If the aggregate Trade Event Certified Costs over the Term are [redacted] (the "**Trade Event Cost Cap**"), the Contract Rate shall no longer be automatically increased for any additional Trade Event Certified Costs in excess of the Trade Event Cost Cap, and the Parties shall negotiate in good faith to find a mutually agreeable allocation of costs such that Seller can comply with its obligations under this Agreement. If the Parties are unable to reach a resolution within forty five (45) Days of Seller's delivery of the applicable Trade Event Notice, then Seller shall have the right to terminate this Agreement pursuant to Section 4.5(a) (such event, a "**Trade Event Termination**"), effective upon delivery of written notice to Customer. Neither Party shall have any liability to the other as a result of a Trade Event Termination.

Within [redacted] Seller will by notice to Customer provide reasonable documentation demonstrating that the Contract Rate increase and the Trade Event Certified Costs claimed in accordance with this Section 2.2(b) were actually incurred by Seller, including, if applicable, receipts or similar documentation procured from suppliers and contractors. To the extent the Trade Event Certified Costs actually incurred by Seller in constructing the Project were less than reflected in Seller's Trade Event Notice(s) provided in accordance with this Section 2.2(b), then effective as of the Commercial Operation Date, the Contract Rate will be adjusted in accordance with the calculation set forth in Section 2.2(b) to reflect the Trade Event Certified Costs actually incurred, except in no event will the Contract Rate be reduced below the original Contract Rate stated herein.

(c) Domestic Content. [redacted] If, despite its exercise of commercially reasonable efforts to do so, Seller is unable to cause the Project to qualify for Domestic Content Tax Credits as a result of a change in Applicable Law occurring after the Effective Date (such change, a "**DC Change Event**"), then Seller shall promptly provide written notice thereof to Customer (a "**DC Event Notice**"). The DC Event Notice shall contain a certification from an officer of Seller certifying that the Project will not qualify for Domestic Content Tax Credits (the "**DC Event Certification**"). Upon delivery of the DC Event Certification, the Contract Rate shall be automatically increased, without further action by either Party, [redacted], subject to the limitation set forth in Section 2.2(e).

(d) Energy Community. Seller shall use commercially reasonable efforts to cause the Project to qualify for the Energy Community Bonus Credit. If Seller is able to cause the Project to qualify for the Energy Community Bonus Credit, Seller shall promptly provide written notice thereof to Customer (an "**EC Event Notice**"). The EC Event Notice shall contain a certification from an officer of Seller certifying that the Project has qualified for the Energy Community Bonus Credit (the "**EC Event Certification**"). Upon delivery of the EC Event Certification, the Contract Rate shall be automatically decreased, without further action by either Party, [redacted]

(e) Maximum Contract Rate Increases. Notwithstanding anything to the contrary herein, in the event that any increases or decreases to the Contract Rate pursuant to the terms of this Agreement, collectively, in the aggregate, cause the adjusted Contract Rate to exceed [redacted] as of the Effective Date (the "**Maximum Contract Rate**"), then Customer shall have the right to terminate this Agreement pursuant to Section 4.5(a) (such event, a "**Maximum Contract Rate Termination**"); provided, however, that Customer shall have no right to terminate this Agreement if Seller agrees to waive such increases such that the Contract Rate is at or below the Maximum Contract Rate. In determining whether the Maximum Contract Rate has been exceeded, any Contract Rate adjustments voluntarily agreed to by the Parties in connection with any Compliance Costs which are the

responsibility of Customer pursuant to Section 10.4 shall not be included for purposes of determining whether the adjusted Contract Rate exceeds the Maximum Contract Rate. Neither Party shall have any liability to the other as a result of a Maximum Contract Rate Termination.

(f) Full Compensation. The Monthly Payment constitutes the full compensation due to Seller for the Product. For the sake of clarity, except as provided in Section 2.5 below with respect to certain taxes, as between the Parties, Seller shall be responsible for any and all costs or charges imposed on or allocated to Seller or the Project by any Governmental Authority or Transmission Provider (including any costs or charges allocated to Seller or the Project under any OATT and associated with the Product) arising prior to the Delivery Point, and Customer shall be responsible for any and all costs or charges imposed on or allocated to Seller or the Project by any Governmental Authority or Transmission Provider (including any costs or charges allocated to Seller or the Project under any OATT and associated with the Product) arising at and after the Delivery Point.

2.3 ***Capacity Attributes; Project Qualification.***

(a) Generally. Customer shall be entitled to, for no additional consideration, all Products associated with the Project, regardless of the type or form of such Products or when such Products may come into existence or be acquired by Seller, subject to Section 2.3(b). The Parties intend, and will take all commercially reasonable actions to ensure, that charging and discharging Energy to and from the Project will not result in unbundling of renewable energy certificates or other environmental attributes from any renewable Energy used to charge the Project.

(b) Project Qualification. Seller will use commercially reasonable efforts (including complying with all applicable reporting requirements and executing any and all documents or instruments reasonably necessary) to cause the Project to qualify for all applicable Products available throughout the Term of this Agreement. If Seller's reasonable, actual out-of-pocket costs and expenses to qualify for any Products hereunder exceeds [redacted] (the "**Product Qualification Cost Cap**"), Seller shall be entitled to reimbursement from Customer for such costs and expenses in excess of the foregoing amount. If for any reason a Product cannot be transferred to Customer, then Customer shall be entitled to any revenues received by Seller (and other economic benefits, if any) associated with such Product, after deduction of all reasonable, actual out-of-pocket costs of Seller necessary to provide such Products that were not previously reimbursed by Customer.

(c) Capacity Attribute Registration. Seller shall, at Seller's sole cost and expense (subject to the Product Qualification Cost Cap), take all commercially reasonable steps and actions prior to the Commercial Operation Date to ensure the Capacity Attributes existing as of the Effective Date are available from the Project and registered in the applicable states and under the applicable OATTs (in such registry(ies) as are reasonably specified in advance by Customer) and transferred to Customer pursuant to this Agreement. Seller shall, at Seller's sole cost and expense, update and maintain such registrations consistent with Applicable Law then in effect. Seller shall use commercially reasonable

efforts to provide Customer with any information needed by Customer to register the Project with the WRAP Program in accordance with the applicable rules and protocols thereof. Subject to Section 2.3(b), Seller shall register with any other registry for such Capacity Attributes as may be requested by Customer from time to time, at Customer's sole cost and expense.

(d) Delivery. Customer shall, at all times during the Term hereof, own, and have the right to claim for its own benefit and account, all Capacity Attributes associated with the Project. If and to the extent that any of the Capacity Attributes cannot be transferred to Customer, then Seller shall arrange for an alternative mutually acceptable method of assigning to Customer all rights and authority necessary for Customer to register, hold, and manage such Capacity Attributes in Customer's own name and for Customer's account.

(e) Reporting and Public Statements. Unless required by Applicable Law (in which case Seller shall notify Customer of such requirement a reasonable time prior to compliance therewith), Seller shall not report to any Person that the Capacity Attributes belong to any Person other than Customer, and Customer may report under any such program that the Capacity Attributes belong to Customer. Seller shall maintain and make available to Customer all statements and records reasonably required to properly document compliance with Seller's obligations to Customer with respect to the Capacity Attributes.

(f) Additional Documents. Seller shall provide such additional documents and instruments as are reasonably requested by Customer to effect or evidence transfer of the Capacity Attributes to Customer or its designees. Each Party shall promptly give to the other Party copies of all documents it submits to any Governmental Authority to effectuate or record any such transfers.

2.4 ***Incentives***. Notwithstanding anything to the contrary in this Agreement, Seller shall be entitled to all Incentives relating in any way to this Agreement and/or the Project, including, for the avoidance of doubt, the provision of the Storage Services. Customer acknowledges that Seller has the right to sell any Incentives to which it is entitled pursuant to this Section 2.4 to any Person other than Customer at any rate and upon any terms and conditions that Seller may determine in its sole discretion without liability to Customer hereunder. Customer shall have no claim, right or interest in such Incentives or in any amount that Seller realizes from the sale of such Incentives.

2.5 ***Taxes.*** If the sale of any Product becomes subject to Washington State and Local Sales and Use Taxes, then Customer shall pay (and shall indemnify and hold Seller harmless on an after-tax basis from and against) all Washington State and Local Sales and Use Taxes arising out of or with respect to the purchase or sale of any Product that are imposed by any taxing authority at or after the Delivery Point (regardless of whether such Washington State and Local Sales and Use Taxes are imposed on Customer or Seller), together with any interest, penalties or additions to tax payable with respect to such Washington State and Local Sales and Use Taxes. Seller shall pay (and shall indemnify and hold Customer harmless on an after-tax basis from and against) all other taxes, including taxes arising out of or with respect to the purchase or sale of any Products that are imposed by any taxing authority prior to the Delivery Point, taxes based on or measured by Seller's net income, business and occupation taxes, public utility taxes, property

taxes, replacement taxes and/or special assessments that may be levied upon the Project as well as state or local sales taxes applicable to the construction, maintenance, repair or operation of the Project, together with any interest, penalties or additions to tax payable with respect thereto.

2.6 ***Billing and Payment***. Billing and payment for the Monthly Payment and any other amounts due and payable hereunder shall be as follows:

(a) Seller shall calculate the amount of the Monthly Payment. No later than the tenth (10th) Day of each calendar month, Seller shall deliver to Customer an electronic invoice showing: (i) the amount of Monthly Payment for the preceding calendar month (pro-rated as appropriate in the case of the first month or the final month of the Term), and (ii) any other amounts owed by one Party to the other Party pursuant to this Agreement. With respect to each invoice, by the later of (x) ten (10) Days after receipt of such invoice, or (y) the twentieth (20^{th}) Day of the month in which the invoice was received, Customer shall pay to Seller, by wire transfer of immediately available funds to an account specified in writing by Seller or by any other means agreed to by the Parties in writing from time to time, the undisputed amount set forth as due in such invoice.

(b) The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other under this Agreement on the same date through netting, in which case all amounts owed by each Party to the other Party for the Product delivered during the monthly billing period under this Agreement, including any related damages calculated pursuant to Section 2.12, interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

(c) Within two (2) years after receipt of any invoice, either Party may provide written notice to the other Party of any alleged error therein and the Parties shall meet, by telephone conference call or otherwise within ten (10) Days of the other Party's receipt of such notice, for the purpose of attempting to resolve the dispute. If either Party in good faith disputes any portion of the charges contained in an invoice, the paying Party will pay the undisputed portion and may withhold the disputed portion of the invoice in accordance with Section 11.16. If the Parties are unable to resolve the dispute within thirty (30) Days after such initial meeting, then either Paty may proceed to seek any remedy that may be available to such Party at law or in equity.

(d) If Customer in good faith disputes an invoice, Customer shall provide Seller with a written explanation specifying in detail the basis for the dispute, and Customer shall pay the undisputed portion of the invoice in accordance with this Section 2.6. Disputed portions of Seller's invoice shall be due and payable no later than ten (10) Days after resolution of the dispute. Any payment not made by the date required by this Agreement shall bear interest from the date on which such payment was required to have been made through and including the date such payment is actually received at an annual rate equal to the Prime Rate then in effect plus [redacted] but in no event shall such interest exceed the maximum interest rate permitted by Applicable Law ("**Late Payment Rate**"). If, as a result of a Dispute settled in favor of Customer, a refund is owed to Customer, then the amount of the overpayment shall bear interest from the date on which such payment

was made by Customer through and including the date that the overpayment is refunded by Seller at an annual rate equal to the Late Payment Rate.

(e) Statements or invoices shall be sent to Customer by electronic mail to the electronic mail address designated in Section 11.4. Customer may change the electronic mail address by providing written notice to Seller.

(f) To the extent that at the end of the Term, after offsetting all amounts owed by one Party to the other Party, one Party owes any amount to the other Party, such Party shall pay such amount to the other Party within thirty (30) Days after the expiration of the Term.

2.7 ***Title and Risk of Loss***. Customer shall at all times have title to all Charging Energy and Discharged Energy. Customer shall be deemed to have exclusive control and possession with respect to the Energy delivered under this Agreement and be responsible for any damage or injury caused thereby before the Charging Energy is delivered to the Delivery Point and after the Discharged Energy is received at the Delivery Point. After delivery of the Charging Energy to the Delivery Point and until its redelivery to the Delivery Point as Discharged Energy, Seller shall be deemed to have exclusive control and possession with respect to the Energy and be responsible for any damage or injury caused thereby. Title and risk of loss with respect to Product that is not capable of being delivered to the Delivery Point shall pass from Seller to Customer when the same first come into existence. For the avoidance of doubt, the Parties agree that the transfer of title to Capacity Attributes occurs in the state of Washington or any other state in which such Capacity Attributes are registered (to the extent applicable). Seller represents and warrants to Customer on a continuing basis that (i) it has not sold, pledged, assigned, transferred or otherwise disposed of, and will not sell, pledge, assign, transfer or otherwise dispose of, any of the Product associated with the Project to any Person other than Customer, and (ii) that it will deliver to Customer the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to or at the Delivery Point.

2.8 ***Interconnection and Transmission.***

(a) Interconnection. Seller shall be responsible for all work and requirements necessary to interconnect the Project to the Delivery Point under the Interconnection Agreement, including, but not limited to, obtaining any approvals for surplus interconnection rights under a SISA (if applicable). Seller shall be responsible, at Seller's sole cost, for putting into place all required metering, telemetry, communication systems, and other technical requirements under the Interconnection Agreement or as may be reasonably required by Customer to enable Customer to pseudo-tie the Project to Customer's balancing area.

(i) *Shared Facilities*. The Parties acknowledge that ownership and use of the Shared Facilities may be subject to a co-tenancy or similar sharing agreement (collectively, "**Shared Facilities Agreement(s)**"), under which Shared Facilities Agreements an Affiliate of Seller, or a reasonably experienced third party, may act as a manager on behalf of Seller and the Other Seller(s). Subject to Section 2.8(a)(ii), Seller shall ensure that, from and after the Commercial Operation Date,

Seller shall have sufficient interconnection capacity and rights under or through the SISA and the Shared Facilities Agreements if any, to interconnect the Project and fulfill its obligations under this Agreement.

(ii) *Point of Delivery Limitation*. Notwithstanding any provision to the contrary contained in this Agreement, Seller shall not under any circumstance follow, and shall not be liable to Customer for failure to follow, any Discharging Notice from Customer to the extent following such Discharging Notice would cause the Discharged Energy subject to such Discharging Notice, when combined with energy generated from the Solar Project which is delivered to the Delivery Point (the "**PV Energy**"), to exceed the Point of Delivery Limitation. Customer acknowledges and agrees that the Project's right to use its interconnection capacity under the SISA (if applicable) to deliver Discharged Energy to the Delivery Point will be subordinate to the Solar Project's right to use its interconnection capacity under the Solar Project's interconnection agreement to deliver PV Energy to the Delivery Point at such times and to the extent delivery of Discharged Energy to the Delivery Point, when combined with PV Energy delivered to the Delivery Point, would exceed the Point of Delivery Limitation.

(b) Transmission. Seller shall be responsible for obtaining all transmission service agreements necessary to deliver Energy from and after the Delivery Point to the Transmission Point of Receipt in an amount equal to the Planned Nameplate Capacity. On or prior to the Commercial Operation Date, Seller shall assign to Customer all applicable transmission service agreements, and upon such assignment, Customer shall be solely responsible for all costs, liabilities, and charges arising thereunder, including any charges for transmission or wheeling services, Ancillary Services, control area services, congestion charges, location marginal pricing differentials, transaction charges, line losses occurring after the Delivery Point, and any other costs or charges levied by the Balancing Authority, unless and to the degree caused by Seller operating the Project in a manner contrary to Customer's scheduling instructions. Customer shall reasonably cooperate in effectuating any such assignments.

(c) Station Service. Seller shall be responsible for arranging and obtaining from the applicable local retail electric service provider, at Seller's sole cost and expense, all Station Service required for the operation of the Project. All Energy drawn by the Project during periods of time when Seller has not received a Charging Notice or a Discharging Notice may be considered Station Service.

2.9 ***Scheduling; Imbalance Charges.***

(a) Scheduling.

(i) With respect to any and all scheduling requirements, (A) Seller must cooperate with Customer with respect to scheduling Charging Energy and Discharged Energy, and (B) each Party will designate authorized representatives to communicate with regard to scheduling and related matters arising under this Agreement. Each Party must comply with the applicable variable resource

standards and criteria of any applicable Governmental Authority. Prior to the Commercial Operation Date, each Party shall be responsible for obtaining and maintaining all scheduling and transmission approvals from any Governmental Authority required to be obtained by such Party in their respective roles, in each case, necessary to test and commission the Project.

(ii) Seller shall execute and submit to Customer any consents required by Transmission Provider that allow Customer to read the Meter and receive any and all data from Transmission Provider relating to Charging Energy, Discharged Energy and other matters relating to the Project without the need for further consent from Seller.

(b) Dispatch.

(i) Beginning on the Commercial Operation Date, Customer will provide Dispatch Instructions for the Project either: (i) using Generator Set-Points transmitted by the Balancing Authority (at Customer's request) to the Project control system installed by Seller, and Seller shall cause its Project control system to comply with the Generator Set-Points so transmitted; (ii) by telephonic communication, and Seller shall promptly comply with Customer's Dispatch Instruction; or (iii) as mutually agreed upon by the Parties; provided, however, that all Dispatch Instructions shall be consistent with the Operating Parameters described in Exhibit B and be within the Project's capabilities, as reported in the Project's real-time SCADA System.

(ii) The Generator Set-Points are communicated electronically through the SCADA System. Seller shall ensure that, throughout the Term, the SCADA signal is capable of functioning on all Generator Set-Points within the margin of error specified in the Project control system manufacturer's set point margin of error.

(iii) Unless otherwise directed by Customer, Seller shall ensure that the Project's control system is in "remote" Generator Set-Point control during normal operations.

(iv) Seller will allow Customer access to its plant-level data from the BESS Controller, and Seller will comply with Applicable Law and applicable critical infrastructure protection requirements.

(v) Seller shall provide Customer, in a timely manner and at Customer's request, with access to any requested data points transmitted to the Balancing Authority, including state of charge, MW available for sixty (60) minutes, voltage, MVA and MVAR.

2.10 ***Project Operations and Maintenance; Access.***

(a) During the Term, the Project shall be operated and maintained by Seller or its designee in accordance with Prudent Operating Practices, Applicable Law, this

Agreement and the Interconnection Agreement. The cost of such operation and maintenance is included in the Contract Rate and Customer shall have no responsibility for any such costs under any circumstances whatsoever. Seller shall obtain all certifications, permits, licenses, insurance and approvals necessary to construct, operate and maintain the Project and to perform its obligations hereunder.

(b) As soon as reasonably practicable, and in any event no later than ninety (90) Days prior to the expected Commercial Operation Date, Seller shall, at its discretion, develop written operating procedures for the Project and submit such procedures to Customer (the "**Operating Procedures**"). The final Operating Procedures may be amended from time to time at Seller's reasonable discretion, effective upon delivery of written notice to Customer indicating such changes to the Operating Procedures. The Parties agree that the Operating Procedures will cover the protocol under which the Parties will perform their respective obligations under this Agreement and will include, but will not be limited to, procedures concerning the following: (i) the method of day-to-day communications and reporting; (ii) key personnel lists for Seller and Customer; (iii) reasonable coordination regarding the timing of scheduled maintenance and Planned Outages and Augmentation Outages; (iv) reporting of scheduled maintenance, Planned Outages, Augmentation Outages and Forced Outages of the Project; and (v) ongoing reporting of projected capacity reductions due to Planned Outages, Augmentation Outages, Forced Outages, and any other curtailments reasonably foreseeable by Seller.

(c) On or prior to the Commercial Operation Date, and sixty (60) Days prior to the start of each Contract Year thereafter, Seller will provide Customer a non-binding Planned Outage and Augmentation Outage schedule for the forthcoming Contract Year. Seller shall be excused from providing electricity during any Planned Outage and Augmentation Outage to the extent thereof. Unless otherwise mutually agreed to by the Parties, (i) in no event shall the Project be subject to a Planned Outage or Augmentation Outage [redacted] in a Contract Year, and (ii) no individual Augmentation Outage shall cause the Project to be unavailable for longer than the equivalent period of time required for the Project to deliver [redacted] had the Project been available during such period. In no event shall Seller schedule more than [redacted] Augmentation Outages during the Delivery Term.

(d) Seller shall notify Customer with as much advance notice as practicable of any proposed or necessary maintenance Outages, including Planned Outages and Augmentation Outages. The Parties shall work to plan such Outage to mutually accommodate, as practicable, the reasonable requirements of Seller and service obligations of Customer; provided, that Customer's requirements shall not unduly prejudice the operation and maintenance of the Project.

2.11 ***Charging and Discharging the Project.***

(a) During the Term, Customer shall have the exclusive right to schedule or designate the Project to deliver and make available Discharged Energy to Customer and/or accept Charging Energy, in accordance with the Operating Procedures and the requirements of this Agreement. Subject to the requirements and limitations set forth in

this Agreement, including the Operating Procedures, Customer will have the exclusive right to charge and discharge the Project seven (7) days per week and twenty-four (24) hours per day (including holidays), by providing Dispatch Instructions to Seller. Each Charging Notice will be effective unless and until Customer modifies such Charging Notice by providing Seller with an updated Charging Notice, and each Discharging Notice will be effective unless and until Customer modifies such Discharging Notice by providing Seller with an updated Discharging Notice. Seller shall charge (from Charging Energy) and discharge the Project in strict compliance with Customer's Dispatch Instructions.

(b) Customer shall be responsible for arranging, managing, purchasing, scheduling, and delivering to the Delivery Point all Charging Energy necessary to charge the Project in connection with this Agreement. In no event shall Seller be permitted to provide Charging Energy for use in the Project.

(c) Seller shall not charge or discharge the Project during the Term other than pursuant to a Charging Notice, a Discharging Notice, the Operating Procedures, or in connection with a Performance Test conducted in accordance with the requirements of this Agreement.

(d) As of the Effective Date, the Parties acknowledge and agree that Customer shall provide Charging Energy exclusively from the Solar Project. After the Effective Date, to the extent the Transmission Provider allows the Project to receive Charging Energy from the grid, then the Parties shall negotiate in good faith an amendment to this Agreement to permit such grid charging that balances the benefits and burdens set forth in this Agreement; provided that, in connection with such amendment, neither Party shall be obligated to incur any additional costs or responsibilities to effectuate grid charging.

(e) Subject to the limitations set forth in Section 2.11(d), Seller agrees to use commercially reasonable efforts to support Customer's efforts to pursue interconnection, transmission service requests, permits, and Governmental Approvals necessary to effectuate grid charging. For the avoidance of doubt, Seller shall not be required to incur any network upgrade costs or other transmission or interconnection costs associated with such efforts.

2.12 ***Performance Guarantees.*** Seller guarantees that the Project will satisfy the Performance Guarantees set forth in Exhibit G. Seller shall comply with requests for data and information, and otherwise reasonably cooperate with Customer in respect of, the use of any battery optimization software arrangements that the Customer may employ.

2.13 ***Market Structure***. Seller's delivery obligations with respect to the Product (to and at the Delivery Point) and Customer's transmission obligations (from and after the Delivery Point) outlined in this Article 2 reflect the market structure under which the Project will operate as of the Commercial Operation Date. If (i) there are material market structure changes during the Term that prevent Seller from satisfying its obligations under this Agreement to receive Charging Energy at the Delivery Point, store such Energy at the Project and deliver Discharged Energy from the Project to the Delivery Point, or that prevent Customer from delivering Charging Energy to the Delivery Point or meeting its transmission obligations with respect to Discharged Energy from and

after the Delivery Point, or (ii) Transmission Provider or Customer joins a regional transmission organization or independent system operator structure during the Term, the Parties will use commercially reasonable efforts to amend this Agreement to enable Seller or Customer to meet such scheduling, delivery and transmission obligations within the new market structure in a manner that (A) maintains the existing allocation of scheduling, delivery and transmission obligations between Seller and Customer under this Agreement, or to enable Transmission Provider or Customer, as applicable, to participate in such regional transmission organization or independent system operator structure, subject in all cases to Section 2.3 and (B) preserves the economic terms and conditions of this Agreement (including economic benefits, risk allocation, costs and liabilities).

2.14 ***Seller's Assistance***. Seller covenants to provide commercially reasonable cooperation to Customer at Customer's request in supporting efforts by Customer to oppose any action of any regulatory body having jurisdiction thereover to direct the material modification of terms or conditions of this Agreement.

ARTICLE 3
TERM

3.1 ***Term***. The term of this Agreement (the "**Term**") shall commence on the Effective Date and shall continue unti[redacted]. The "**Delivery Term**" shall commence on the Commercial Operation Date and end at the expiration of the Term.

3.2 ***Right of First Offer***. Prior to the Commercial Operation Date, if this Agreement is terminated by either Party for any reason other than a Customer Event of Default, then, in the event that Seller, at any time prior to the date that is [redacted] after such termination, desires to enter into one or more agreements for the purchase and sale of any Product from the Project with any third party, then Seller shall first provide notice to Customer of Seller's intent to enter into such agreement(s), which notice must include a good faith offer to sell the Products to Customer and include the same price, delivery period, and other material terms that Seller has negotiated with such third party ("**Seller's Offer**"). Customer shall have a period of [redacted]. If Customer does not accept Seller's Offer [redacted] then Seller shall have the right to enter into one or more agreements for the purchase or sale of Products from the Project with one or more third parties.

3.3 ***Purchase Option.***

(a) Grant of Option. In consideration of the promises and mutual representations, warranties, covenants and agreements in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller hereby grants to Customer an option (the "**Purchase Option**"), to acquire all tangible and intangible assets comprising the Project on an as-is-where-is basis (collectively, the "**Project Assets**") [redacted] (the "**Option Period**"), which

may be exercised by Customer by delivery to Seller of a written, unconditional, and irrevocable notice exercising the Purchase Option (an "**Exercise Notice**"); provided, that if Customer does not deliver an Exercise Notice to Seller within the Option Period, Customer's right to exercise such Purchase Option shall automatically terminate after the expiration of the Option Period. Notwithstanding the foregoing, the Parties hereto acknowledge that Customer's right to exercise its Purchase Option is conditioned upon Customer purchasing both (1) the Project, pursuant to the terms set forth in this Section 3.3, and (2) the Solar Project, pursuant to the terms set forth in the Solar PPA.

(b) Purchase Price. The purchase price for the Project Assets will be the Fair Market Value. For the purposes of this Section 3.3, the "**Fair Market Value**" of the Project Assets shall be [redacted]

(c) Determination of Fair Market Value. [redacted]

(d) Exercise of Option. Upon Customer's delivery of an Exercise Notice to Seller (such date, the "**Exercise Date**"), Customer shall have a period of [redacted] after the Exercise Date to conduct diligence on Seller and the Project Assets (the "**Diligence Period**"). Within [redacted] of the Exercise Date, Seller shall prepare and deliver to Customer an asset purchase and sale agreement containing customary representations, warranties, and covenants with respect to an as-is-where-is sale and other terms and conditions mutually acceptable to the Parties, and Customer shall thereafter have until the end of the Diligence Period in which to review and execute the asset purchase and sale agreement; provided, the Diligence Period shall be extended on a day-for-day basis to the extent that the Fair Market Value has not been determined pursuant to Section 3.3(c) within [redacted] following the Exercise Date.

(e) Closing. The Parties shall use commercially reasonable efforts, and shall work together in good faith, to close the sale of the Project Assets within thirty (30) Days after the expiration of the Delivery Term (or later, to the extent reasonably necessary to obtain any required third party and/or governmental consents), and the sale shall include customary representations and warranties, including representations and warranties related to authority, due execution, ownership, and the ability of the Seller to sell such Project Assets free and clear of any liens or other encumbrances.

ARTICLE 4
TIMELINE, DEFAULT, AND TERMINATION

4.1 ***Development and Construction***. Following the Effective Date, Seller shall work to: (a) secure all necessary land use rights for the Site and all necessary rights of access and rights of way for Seller to receive Charging Energy at and deliver Discharged Energy to the Delivery Point; (b) complete all environmental impact studies necessary for the construction, operation, and maintenance of the Project; (c) acquire all Governmental Approvals (including, but not limited to, the Required Permits) and other necessary approvals for the construction, operation, and maintenance of the Project; (d) achieve all Milestones set forth in Section 4.4; and (e) achieve a Commercial Operation Date on or before the Guaranteed Commercial Operation Date. Seller will cause the Project to be designed, engineered, constructed, installed, operated, and maintained in accordance with Prudent Operating Practices and all Applicable Law.

4.2 ***Government Approvals***. Seller shall secure and maintain, at no cost to Customer, all approvals, permits (including environmental permits), licenses, easements, rights-of-way, releases and other approvals of any Governmental Authority necessary for the construction, engineering, operation and maintenance of the Project, and the performance by Seller of its obligations hereunder (the "**Governmental Approvals**"). Such obligations shall include, but shall not be limited to, (i) the responsibility to comply with all applicable FERC-approved compliance and reporting responsibilities with respect to the Project required by the NERC or any successor electrical reliability organization, and (ii) the responsibility to qualify all Capacity Attributes in accordance with Applicable Law and the requirements set forth in this Agreement. Seller shall provide Customer with copies of all Required Permits and other material Governmental Approvals promptly following receipt of same. Seller shall use commercially reasonable efforts to obtain all those Governmental Approvals specified in Exhibit H (the "**Required Permits**") for the Project by [redacted] (the "**Required Permits Deadline**"); provided, that, Seller shall have the option

to extend the Required Permits Deadline by up to [redacted] by delivery of written notice to Customer, if Seller has used commercially reasonable efforts to obtain the Required Permits, but any of the Federal Permits remain outstanding as of the date of Seller's exercise of such option. [redacted]

4.3 ***Project Configuration; Progress Reporting***

(a) The Project configuration as currently contemplated is described in Exhibit A. Seller shall not materially modify the Project configuration without Customer's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed (it being understood that it shall be reasonable for Customer to withhold such consent if Customer determines that the proposed change by Seller would materially affect the storage capabilities or other characteristics of the Project); provided, that Customer's consent shall not be required for any change to an equipment supplier where such change does not materially modify the Project's configuration. If Seller desires to materially modify the Project configuration, Seller shall provide Customer with the detail of such proposed modification, including all information and data as may be reasonably necessary for Customer to evaluate such proposal, including with respect to any project characteristics, equipment suppliers and technology type that Seller proposes to use in construction of the Project. If any such material modification is agreed to by the Parties in writing, the Parties shall amend Exhibit A to reflect the final technology selection as so agreed.

(b) Commencing upon the end of the first calendar quarter after the Effective Date, Seller shall submit to Customer, no later than the tenth (10^{th}) Business Day of each calendar quarter, until the Commercial Operation Date is achieved, progress reports in a form reasonably acceptable to Customer containing updates as to development and construction status and schedules, and providing, at a minimum, a safety report and project schedule analysis of actual progress compared to planned progress by major area. In lieu of providing such reports, Seller may provide copies of any progress report or other similar document provided to any Lender regarding construction of the Project.

4.4 ***Schedule and Capacity Guarantees; Liquidated Damages.***

(a) The Parties agree that time is of the essence as regards the construction of the Project, and accordingly Seller shall use commercially reasonable efforts to complete certain milestones for the construction of the Project, as set forth in the Milestone schedule attached hereto as Exhibit F ("**Milestones**"). Therefore:

(i) Within seven (7) Days after completion of each Milestone, Seller shall provide Customer with notice along with accompanying documentation (including reasonably redacted copies of applicable agreements, Governmental

Approvals, and certificates) to reasonably demonstrate the achievement of such Milestone.

(ii) If Seller's timely achievement of the Commercial Operation Date is impacted by (i) an event of Force Majeure, (ii) delays caused by Customer, including Customer's failure to timely obtain any scheduling and transmission approvals from any Governmental Authority necessary to test and commission the Project, (iii) the failure to obtain any Required Permits, despite Seller's exercise of commercially reasonable efforts to do so, or (iv) an Interconnection Delay (each such delay, an "**Excused Delay**"), then so long as Seller providers to Customer written notice of such Excused Delay on or prior to the Guaranteed Commercial Operation Date, Seller shall be entitled to extend the Guaranteed Commercial Operation Date on a day-for-day basis to the extent of such Excused Delay for a period of [redacted] ("**Excused Delay Cure Period**"); provided, if such Excused Delay(s) can be reasonably attributed to the acts or omissions of the Transmission Provider, then Seller shall be entitled to an additional [redacted] of day-for-day extensions, for a maximum aggregate Excused Delay Cure Period of [redacted]

(b) In the event that the Commercial Operation Date has not occurred on or before the Guaranteed Commercial Operation Date (as may be extended pursuant to the terms hereof), for each Day of delay beyond the Guaranteed Commercial Operation Date and until the Commercial Operation Date has been achieved, Seller shall pay Customer daily delay liquidated damages ("**COD Delay Damages**") in an amount equal to t[redacted]

(c) In the event that Seller incurs delay liquidated damages under Section 4.4(b), Customer shall deliver to Seller an electronic invoice on a monthly basis detailing any amounts Customer is entitled to receive from Seller as delay damages for the prior month. Not more than twenty (20) Days after receipt of each such invoice, Seller shall pay to Customer, by wire transfer of immediately available funds to an account specified in writing by Customer or by any other means agreed to by the Parties in writing from time to time, the undisputed amount set forth as due in such invoice. The provisions of Section 2.6(d) shall apply, *mutatis mutandis*, to any disputed amounts with respect to such invoices.

(d) Seller shall not be permitted to achieve the Commercial Operation Date of the Project unless the Installed Capacity equals or exceeds [redacted] of the Planned Nameplate Capacity. If the Commercial Operation Date is achieved, but the Installed Capacity is less than [redacted] of the Planned Nameplate Capacity, Seller shall have [redacted] after the Commercial Operation Date to install additional capacity such that the Installed Capacity of the Project is equal to or greater than the Planned Nameplate Capacity, and Seller shall provide to Customer a new Commercial Operation Certificate specifying the new Final Nameplate Capacity for the Project. If, on the date that is [redacted] after the

Commercial Operation Date, the Installed Capacity is less than [redacted] of the Planned Nameplate Capacity, Seller shall make a one-time payment of liquidated damages to Customer in the amount of [redacted] that the Installed Capacity is below the Planned Nameplate Capacity. Upon such payment, the Final Nameplate Capacity and other related terms in this agreement, including the Performance Guarantees, shall be adjusted on a pro rata basis based on the ratio of the Planned Nameplate Capacity to the Installed Capacity.

4.5 ***Certain Early Termination Events***

(a) Seller shall be entitled to terminate this Agreement in accordance with Section 2.2(b)(ii) and Customer shall be entitled to terminate this Agreement in accordance with Section 2.2(e). Neither Party shall have any liability to the other as a result of any such Trade Event Termination or Maximum Contract Rate Termination and any Credit Support held by Customer shall be promptly returned to Seller.

(b) If, pursuant to Section 4.2, either (x) [redacted] or (y) Seller fails to obtain all Required Permits by the Required Permits Deadline, then, in each case, Seller may, at its discretion, terminate this Agreement, effective upon delivery of written notice to Customer; *provided*, that Seller shall pay Customer the applicable Pre-COD Termination Payment within thirty (30) Days of such termination.

(c) If Seller is unable to obtain financing for the Project, then at any time prior to the Commercial Operation Date, Seller may, at its discretion, terminate this Agreement, effective upon delivery of written notice to Customer; provided, that Seller shall pay Customer the Pre-COD Termination Payment within thirty (30) Days of such termination.

(d) In the event that the Commercial Operation Date has not occurred on or before the date that is [redacted] after the Guaranteed Commercial Operation Date (as extended pursuant to the terms hereof, the "**Outside Commercial Operation Date**"), Customer shall be permitted to terminate this Agreement, effective upon written notice to Seller; provided, in the event that Customer has not terminated the Agreement within [redacted] of the Outside Commercial Operation Date and the Commercial Operation Date still has not occurred, Seller shall have the right to terminate this Agreement, effective upon written notice to Customer. If either Party terminates this Agreement pursuant to this Section 4.5(d) due to a failure to achieve COD by the Outside Commercial Operation Date, Seller will pay to Customer within ten (10) Business Days an amount equal to the Pre-COD Termination Payment.

(e) In addition to those events set forth in Sections 4.5(a), (b), (c), and (d), in the event that either Party terminates this Agreement prior to the Commercial Operation Date for any reason other than a Customer Event of Default, Change in Tax Law, or event of Force Majeure, Seller will pay to Customer the Pre-COD Termination Payment within thirty (30) Days of such termination.

(f) As used herein, the "**Pre-COD Termination Payment**" shall be an amount equal to [redacted]

(g) In the event of a termination pursuant to this Section 4.5, the Parties shall be released and discharged from any obligations arising or accruing hereunder from and after the date of such termination and shall not incur any additional liability to each other as a result of such termination; provided that such termination shall not discharge or relieve either Party from any obligation that by its terms requires or contemplates performance after such termination event, any obligation which has accrued prior to such termination, any indemnity obligations under Article 8 or the provisions of Section 11.1 or any liability for fraud, which provisions shall survive any termination of this Agreement.

ARTICLE 5
CREDIT SUPPORT

5.1 ***Credit Support.***

(a) Development Security. Within thirty (30) Days of the Effective Date, Seller shall post Credit Support for the benefit of Customer in an amount equal to [redacted] of Planned Nameplate Capacity in the form of cash, Surety Bond, or Letter of Credit (the "**Initial Development Security**"). Upon the later of (x) [redacted] Seller shall post additional or replacement Credit Support in the form of cash, Surety Bond, or Letter of Credit such that the total amount of Credit Support then posted for the benefit of Customer is equal to [redacted] of Planned Nameplate Capacity (the "**Secondary Development Security**"). The Development Security shall in no event be subject to replenishment. Seller shall maintain the Development Security in full force and effect until the earlier of (a) Seller's delivery of the Performance Security, or (b) sixty (60) Days after the early termination of this Agreement, after which Customer shall return the Development Security to Seller, less any amounts drawn thereon in accordance with this Agreement.

(b) Performance Security. On or prior to the Commercial Operation Date, Seller shall post Credit Support for the benefit of Customer in an amount equal to [redacted] of Final Nameplate Capacity in the form of cash, Surety Bond, or Letter of Credit (the "**Performance Security**"). Seller shall maintain the Performance Security in full force and effect, and Seller shall within ten (10) Business Days after any draw thereon replenish the Performance Security in the event Customer collects or draws down any portion of the

Performance Security in accordance with the terms of this Agreement, until (a) this Agreement has been terminated or has expired in accordance with its terms, and (b) all payment and performance obligations of Seller then due and payable under this Agreement have been paid or performed in full. Following the occurrence of both (a) and (b), Customer shall promptly return to Seller the Performance Security, less any amounts drawn thereon in accordance with this Agreement.

5.2 ***Utilization of Credit Support***. Customer shall be entitled to draw upon and/or be paid from any Credit Support provided by Seller for any obligation of Seller arising under this Agreement that is not paid when due (subject to any applicable cure periods). Following the end of the Term, or any termination of this Agreement, and provided that all obligations of Seller under this Agreement or arising out of any expiration or earlier termination thereof have been satisfied in full, including with respect to all outstanding claims of Customer, the Credit Support provided pursuant to Section 5.1 shall be released to Seller within fifteen (15) Business Days.

ARTICLE 6
DATA, METERING AND MEASUREMENT

6.1 ***Metering Equipment.***

(a) Seller:

(i) Shall provide and maintain, at its cost, appropriate Meters, metering accuracy instruments, and associated measuring and recording equipment that adhere to all applicable CAISO SQMD, National Electrical Manufacturers Association and American National Standards Institute standards that are necessary to permit an accurate determination of the quantities of the hourly amount of Charging Energy and Discharged Energy at the Delivery Point;

(ii) Shall provide and maintain, at its cost, appropriate Meters and associated measuring, recording, and communication equipment that adhere to all applicable Transmission Provider's standards and requirements for dispatchable intermittent renewable resources;

(iii) Shall exercise reasonable care in the maintenance and operation of any such Meters and equipment so as to assure to the maximum extent reasonably practicable an accurate determination of the quantities of the hourly (in five (5) minute intervals) Metered Energy. Seller's Primary Meter shall be located at the Delivery Point or on Seller's side of the Delivery Point. Except as provided in Section 6.2, Seller's Primary Meter shall be used for quantity measurements under this Agreement; and

(iv) May install and operate at the Project check meters to measure Metered Energy ("**Seller's Check Meters**").

(b) Seller shall make data from Seller's Primary Meter and Seller's Check Meter, if installed, readily available to Customer via internet link or Excel file. Customer

may use data from Seller's Check Meters if necessary to permit verification of the Discharged Energy under this Agreement.

(c) The Solar Project shall have a separate revenue meter from the Meters hereunder.

6.2 ***Measurement of Metered Energy***. Readings of Seller's Primary Meter shall be conclusive as to the amount of Discharged Energy delivered to the Delivery Point; provided, however, that in the event, and for so long as, Seller's Primary Meter is out of service or is determined, pursuant to Section 6.3, to be registering inaccurately, measurement of Discharged Energy delivered to the Delivery Point shall be determined by:

(a) Seller's Designated Check Meter, if installed; or

(b) In the event that Seller's Designated Check Meter is not installed, by making a mathematical calculation of the Metered Energy delivered to the Delivery Point based on the actual transmission and availability data during such period over which Seller's Primary Meter was out of service or registering inaccurately; or

(c) In the event that (A) Seller's Designated Check Meter is not installed, is out of service or is determined pursuant to Section 6.3 to be registering inaccurately, and (B) the Parties reasonably determine that the mathematical calculation of the Metered Energy delivered to the Delivery Point based on the actual transmission and availability data is not reliable as to the period over which Seller's Primary Meter was out of service or registering inaccurately, the Parties shall promptly meet and negotiate in good faith a method for determining Metered Energy that is fair and reasonable in the circumstances.

6.3 ***Testing and Correction.***

(a) The accuracy of Seller's Primary Meter and Seller's Check Meter, if installed, shall be tested and verified by Seller regularly, but in any event no less than every two (2) years. Except as set forth in Sections 6.3(c)(v) and 6.3(c)(vi), Seller shall be responsible for all costs, including inspection and testing costs, in connection with Seller's Primary Meter and Seller's Check Meter and such cost is included in the Contract Rate.

(b) Each Meter shall be accurate within a one-half percent (0.5%) variance.

(c) If, for any reason at any time during the Term, either Party disputes a Meter's accuracy or condition:

(i) The Party disputing the Meter's accuracy shall notify the other Party in writing;

(ii) The Party receiving such notice shall, within five (5) Days after receiving such notice, advise the other Party in writing as to its position concerning the Meter's accuracy and reasons for taking such position;

(iii) If the Parties mutually and reasonably determine that the Meter is registering outside the one-half percent (0.5%) variance provided for in paragraph (b) above, then such Meter shall be deemed to be registering inaccurately for purposes of Section 6.2;

(iv) If, within fifteen (15) Days after receipt of the notice required by clause (ii) above with respect to a given Meter, the Parties are unable to mutually agree, through reasonable negotiations, on the accuracy or condition of such Meter, then either Party may submit such Dispute to an unaffiliated third-party certified meter testing company mutually acceptable to the Parties to test the Meter, and Seller shall provide such third party reasonable access to the Project for purposes of testing such Meter;

(v) Following the third-party testing of a Meter provided for in Section 6.3(c)(iv), should such Meter be found (in a report distributed to both Parties) to be registering within the permitted one-half percent (0.5%) variance, the disputing Party shall bear the cost of inspection and such Meter shall be deemed accurate for the purposes of calculating the Metered Energy pursuant to Section 6.2;

(vi) Following the third-party testing of a Meter provided for in Section 6.3(c)(iv), should such Meter be found (in a report distributed to both Parties) to be registering outside the permitted one-half percent (0.5%) variance, the non-disputing Party shall bear the cost of inspection and such Meter shall be deemed not accurate for the purpose of calculating the Metered Energy pursuant to Section 6.2; and

(vii) Any repair or replacement of a Meter owned by Seller shall be made at the expense of Seller as soon as practicable, based on the third-party testing company's report. Any repair or replacement of a Meter owned by Customer shall be made at the expense of Customer as soon as practicable, based on the third-party testing company's report.

(d) If, upon testing, any of the Meters used to determine the amount of Metered Energy is found to be in error by more than the permitted one-half percent (0.5%) variance, the quantity of Metered Energy measured since the previous test of such Meter shall be adjusted to correspond to the corrected measurements, pursuant to Section 6.2. If the difference of the payments actually made by Customer minus the adjusted payment is a positive number, Seller shall credit the difference, without interest, to Customer on the next invoice issued by Seller. If the difference is a negative number, Customer shall pay the difference, without interest, to Seller on the next invoice issued by Seller. Such payment or credit, as applicable, shall be made in accordance with Section 2.6.

6.4 ***Meter Data and Records.***

(a) Seller shall provide Customer a report on the Day immediately following the Day that such data becomes available to Seller, indicating Seller's hourly delivery of

Energy to the Delivery Point and fifteen-minute interval data for the prior Day and, if the Parties participate in the Energy Imbalance Market, Seller's five-minute interval data. Seller's report of Energy delivery shall be sent by either: (i) a file attached to an e-mail sent to Customer; (ii) a secure FTP site to which Customer is granted access; or (iii) other method mutually acceptable to the Parties. Such file shall use comma separated value (CSV) format, or such other mutually acceptable format.

(b) Customer or its agent shall have the right to be present whenever Seller changes, repairs, inspects, tests, calibrates, or adjusts any of Seller's equipment used in measuring or checking the measurement of the amount of Energy delivered to the Delivery Point. Seller shall give at least two (2) weeks' notice to Customer in advance of calibrating the Meters, and three (3) Days' notice to Customer in advance of taking other action that would materially affect the accuracy of the Meter unless Prudent Operating Practices necessitate executing such action upon shorter notice or unless otherwise mutually agreed by Seller and Customer. The records from the measuring equipment shall remain the property of Seller, but, upon request, Seller shall submit to Customer its records and charts, together with calculations therefrom, for inspection, verification and copying, subject to return within ten (10) Days after receipt thereof. Seller agrees to retain such records for not less than [redacted] after the expiration or termination of this Agreement.

6.5 ***Data***. Measuring equipment is installed at the Project, which has the capability of measuring and recording transmission data 24 hours per Day. Seller shall provide Customer real time access to Seller's historian which contains the data from the SCADA System. The Project's SCADA System shall continuously monitor and record Discharge Power Capability and Charge Power Capability. The method by which Seller provides transmission data to Customer may be amended by mutual agreement of the Parties from time to time. For clarity, Seller's obligation to maintain the data referenced in this Section 6.5 shall be subject to the recordkeeping and audit provisions contained in Section 11.6 of this Agreement.

ARTICLE 7
REPRESENTATIONS, WARRANTIES, AND COVENANTS

7.1 ***Seller's Representations and Warranties.***

(a) Seller represents and warrants as follows:

(i) Seller is a limited liability company, duly organized, validly existing, and in good standing under the laws of the State of Delaware, and authorized to conduct business in State of Washington;

(ii) Seller has the power and authority to enter into and, subject to Seller obtaining the Required Permits, perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement;

(iii) Seller has taken all action required by Applicable Law in order to approve, execute and deliver this Agreement;

(iv) The execution and delivery of this Agreement, the consummation of the transactions contemplated herein and the fulfillment of and compliance by Seller with the provisions of this Agreement will not conflict with or constitute a breach of or a default under or require any consent, license or approval (except for those approvals set forth in Section 4.2) that has not been obtained pursuant to any of the terms, conditions or provisions of any law, rule or regulation, any order, judgment, writ, injunction, decree, determination, award or other instrument or legal requirement of any court or other agency of government, the documents of formation of Seller or any contractual limitation, restriction or outstanding trust indenture, deed of trust, mortgage, loan agreement, lease, other evidence of indebtedness or any other agreement or instrument to which Seller is a party or by which it or any of its property is bound and will not result in a breach of or a default under any of the foregoing;

(v) With the exception of the actions set forth in Section 4.2, Seller has taken all such action as may be necessary or advisable and proper to authorize this Agreement, the execution and delivery hereof, and the consummation of transactions contemplated hereby;

(vi) There are no bankruptcy, insolvency, reorganization or receiverships pending or being contemplated by Seller, or to its knowledge threatened against Seller;

(vii) There are no actions, proceedings, suits, rulings or investigations pending or, to Seller's knowledge, threatened against Seller or any of its Affiliates that could be reasonably expected to adversely affect Seller's ability to perform its obligations under this Agreement;

(viii) This Agreement is a legal, valid and binding obligation of Seller enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditor's rights or by the exercise of judicial discretion in accordance with general principles of equity; and

(ix) Seller owns, and will at all times during the Delivery Term, own or otherwise have all rights necessary to produce and sell to Customer the Product as contemplated by this Agreement, free and clear of any lien, encumbrance, claim of infringement, misappropriation or any violation of the rights of other Persons, as needed at the then-current stage of development or operation of the Project.

7.2 ***Customer's Representations and Warranties.***

(a) Customer represents and warrants as follows:

(i) Customer is a public utility district, duly organized, validly existing, and in good standing under the laws of the State of Washington;

(ii) Customer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging

and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement;

(iii) Customer has taken all action required by Applicable Law in order to approve, execute and deliver this Agreement;

(iv) The execution and delivery of this Agreement, the consummation of the transactions contemplated herein and the fulfillment of and compliance by Customer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under or require any consent, license or approval that has not been obtained pursuant to any of the terms, conditions or provisions of any law, rule or regulation, any order, judgment, writ, injunction, decree, determination, award or other instrument or legal requirement of any court or other agency of government, the documents of formation of Customer or any contractual limitation, restriction or outstanding trust indenture, deed of trust, mortgage, loan agreement, lease, other evidence of indebtedness or any other agreement or instrument to which Customer is a party or by which it or any of its property is bound and will not result in a breach of or a default under any of the foregoing;

(v) Customer has taken all such action as may be necessary or advisable and proper to authorize this Agreement, the execution and delivery hereof, and the consummation of transactions contemplated hereby;

(vi) There are no bankruptcy, insolvency, reorganization or receiverships pending or being contemplated by Customer, or to its knowledge threatened against Customer;

(vii) There are no actions, proceedings, suits, rulings or investigations pending or, to Customer's knowledge, threatened against Customer or any of its Affiliates that could be reasonably expected to adversely affect Customer's ability to perform its obligations under this Agreement; and

(viii) This Agreement is a legal, valid and binding obligation of Customer enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditor's rights or by the exercise of judicial discretion in accordance with general principles of equity.

7.3 ***Seller's Covenants.***

(a) Seller covenants that Seller shall comply with all Applicable Law, including all anti-corruption, antibribery, anti-money laundering, antiterrorism and economic sanction and antiboycott Applicable Law.

(b) Seller shall notify Customer promptly, but in no event later than ten (10) Business Days, after Seller or its representatives has actual knowledge of any adverse legal action or lawsuit or investigation, against or involving the Project or Seller that could reasonably be expected to have a material adverse effect on the reputation of the Project.

ARTICLE 8
INDEMNIFICATION AND INSURANCE

8.1 ***General Indemnity.***

(a) Indemnity by Seller. Subject to the provisions of Section 11.8, Seller shall release, protect, defend, indemnify and hold harmless Customer, its directors, officers, employees, agents, contractors and representatives, from and against all claims, demands, causes of action, judgments, liabilities and associated costs and expenses (including reasonable attorney's fees) arising from: (i) the Charging Energy after receipt from Customer at the Delivery Point and prior to Seller's re-delivery of such Energy as Discharged Energy and other applicable Product to the Delivery Point; (ii) any claims by third-parties asserting a right to have any Products delivered or transferred to them from the Project; (iii) any property damage, bodily injuries or death suffered by any third party Person (including, without limitation, employees of the Parties) related to, arising from, or connected to the performance or non-performance by Seller of its obligations hereunder; or (iv) except as may otherwise be agreed between the Parties pursuant to Section 10.4, any claims relating to an actual or alleged violation of Applicable Law or the terms of any Governmental Approvals or Required Permits with respect to the Project.

(b) Indemnity by Customer. Subject to the provisions of Section 11.8, Customer shall release, protect, defend, indemnify and hold harmless Seller, its Affiliates, directors, officers, employees, agents and representatives, from and against all claims, demands, causes of action, judgments, liabilities and associated costs and expenses (including reasonable attorney's fees) arising from (i) Charging Energy prior to its delivery by Customer to the Delivery Point; (ii) any Product that has been delivered to Customer at the Delivery Point, or (iii) any property damage, bodily injuries or death suffered by any third party Person (including, without limitation, employees of the Parties) related to, arising from, or connected to the performance or non-performance by Customer of its obligations hereunder.

(c) Comparative Negligence. The indemnification provisions of this Section 8.1 shall apply notwithstanding the negligent acts or omissions of the indemnitee, but the indemnitor's liability to the indemnitee shall be reduced proportionately to the extent that a negligent act or omission of the indemnitee contributed to the loss, injury or property damage. Further, no indemnitee shall be indemnified hereunder for its loss, liability, injury and damage resulting from its gross negligence, fraud or willful misconduct.

(d) Notice and Limitation of Claims.

(i) If any Person seeking indemnification hereunder (an "**Indemnified Party**") believes that a claim, demand or other circumstance exists that has given or may reasonably be expected to give rise to a right of indemnification under this Section 8.1 (whether or not the amount thereof is then quantifiable) against a Party (the "**Indemnifying Party**"), such Indemnified Party shall assert its claim for indemnification by giving written notice thereof (a "**Claim Notice**") to the

Indemnifying Party within ten (10) Business Days following receipt of notice of such claim, suit, action or proceeding by such Indemnified Party. Each Claim Notice shall describe the claim in reasonable detail. The failure of the Indemnified Party to so notify the Indemnifying Party shall not relieve the Indemnifying Party of liability hereunder except (and then only) to the extent that the defense of such claim, suit, action or proceeding is prejudiced by the failure to give such notice.

(ii) Upon receipt by an Indemnifying Party of a Claim Notice, the Indemnifying Party shall be entitled to assume control over the defense of such action or claim, with the reasonable input of the Indemnified Party, at its sole cost and expense and with its own counsel (provided that it give notice of its intention to do so to the Indemnified Party within thirty (30) Days of the receipt of the Claim Notice). The Indemnifying Party's retention of counsel shall be subject to the written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned, or delayed. The Indemnifying Party may negotiate a settlement or compromise of such action or claim; provided, that (A) such settlement or compromise shall include a full and unconditional waiver and release of all Indemnified Parties (without any cost or liability of any nature whatsoever to such Indemnified Parties) and (B) any such settlement or compromise shall be permitted hereunder only with the written consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned or delayed.

(iii) If the Indemnifying Party elects to defend any such action or claim, then the Indemnified Party shall be entitled to participate in such defense with its own counsel at its own cost and expense. Notwithstanding the foregoing, the Indemnified Party may, upon notice to the Indemnifying Party, assume the exclusive right to defend, compromise and settle such claim, in which case the reasonable fees and expenses of the Indemnified Party's counsel shall be borne by the Indemnified Party. In such case, any settlement or compromise of the claim by the Indemnified Party at the expense of the Indemnifying Party shall be permitted hereunder only with the written consent of the Indemnifying Party, which shall not be unreasonably withheld, conditioned or delayed.

(iv) If, within thirty (30) Days of receipt from an Indemnified Party of any Claim Notice, the Indemnifying Party (i) advises such Indemnified Party in writing that the Indemnifying Party shall not elect to defend, settle or compromise such action or claim or (ii) fails to make such an election in writing, such Indemnified Party may, at its option, defend, settle or otherwise compromise or pay such action or claim at the expense of the Indemnifying Party.

(v) Each Indemnified Party shall make available to the Indemnifying Party, through legal counsel and subject to attorney-client privilege, all information reasonably available to such Indemnified Party relating to such action or claim, except as may be prohibited by Applicable Law. In addition, the Parties shall render to each other such assistance as may reasonably be requested in order to ensure the proper and adequate defense of any such action or claim. The Party in charge of the

defense shall keep the other Party fully apprised at all times as to the status of the defense or any settlement negotiations with respect thereto.

8.2 ***Insurance***.

(a) Seller, at its own cost and expense, shall maintain or cause to maintain, and keep in full force and effect from the date hereof through the later of the date of expiration or termination hereof, the following insurance coverage:

(i) [redacted];

(ii) [redacted];

(iii) [redacted];

(iv) [redacted];

(v) [redacted];

(vi) [redacted];

(vii) [redacted]; and

(viii) [redacted].

(b) All insurance policies required to be obtained hereunder shall provide insurance for occurrences from the date hereof through the later of the expiration or termination hereof, except as provided in Section 8.2(a)(v) or 8.2(a)(vi). If any insurance policy required to be obtained hereunder is on a "claims made" basis, [redacted]

(c) Customer, its officers, agents and employees shall be named as additional insured on all commercial general liability, auto liability, and umbrella/excess liability insurance policies required by the specifications hereunder to be maintained by or on behalf of Seller.

(d) All policies with respect to insurance maintained by Seller, except for the professional liability policy, shall waive any right of subrogation of the insurers hereunder against Customer, its officers, directors, employees, agents and representatives of each of them, and any right of the insurers to any setoff or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such Person insured under such policy.

(e) All insurance coverage required by this Agreement shall be issued by an insurer with an A.M. Best's rating of not less than "**A-VII**" or such other insurer as is reasonably acceptable to Customer.

(f) Subject to the continued maintenance of the minimum insurance limits set forth in this Section 8.2, Seller, or Seller's Affiliate, retains the right to make reasonable decisions regarding its Insurance and Risk Financing Programs; including insurance terms and conditions, levels of deductibles/retentions and available limits of coverage – based on insurance market conditions, available capacity and/or other events that could impact the Seller's, or Seller's Affiliate's, overall cost of insuring risk.

(g) Seller shall endeavor to notify Customer of any material change in, or cancellation of, the insurance required by this Section 8.2 at least thirty (30) Days prior to the effective date of such change or cancellation except in the case of non-payment of premiums in which case the notice shall be ten (10) Days or as soon as reasonably known.

(h) Within fifteen (15) Days after the date hereof, Seller shall provide to Customer and thereafter maintain with Customer a current certificate of insurance verifying the existence of the insurance coverage required by this Agreement.

ARTICLE 9
DEFAULTS AND REMEDIES

9.1 ***Events of Default.***

(a) Each of the following shall constitute an "**Event of Default**" hereunder:

(i) Failure by a Party to make any payment required when due if such failure is not remedied within ten (10) Business Days after receipt by the Defaulting Party of written notice of such failure, provided such payment is not the subject of a Dispute;

(ii) Failure by a Party to perform any other material obligation hereunder (except to the extent constituting a separate Event of Default) if such failure is not remedied within thirty (30) Days after receipt by the Defaulting Party of written notice of such failure; provided that if such failure is not reasonably capable of being cured within such thirty (30) Day period but is reasonably capable of cure, then for so long as the Defaulting Party has initiated and is diligently attempting to effect a cure, such Defaulting Party's cure period shall extend for an additional sixty (60) Days;

(iii) Either Party (A) makes an assignment for the benefit of its creditors, (B) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law, (C) has such petition filed against it and such petition is not withdrawn or dismissed for sixty (60) Days after such filing, (D) becomes insolvent, or (E) is unable to pay its debts when due;

(iv) It will be an Event of Default of Seller if:

(A) Seller fails to provide or maintain Credit Support as required under Section 5.1 if such failure is not remedied within five (5) Business Days after receipt from Customer of written notice of such failure;

(B) Except as expressly allowed under the terms of this Agreement, Seller claims or retains any Product for its own use or account or delivers any Product to any Person other than Customer if such claim or retention is not remedied within five (5) Business Days after receipt from Customer of written notice thereof;

(C) [redacted];

(D) [redacted]; and

(E) [redacted]

9.2 ***Remedies.***

(a) Upon the occurrence of an Event of Default by a Party (the "**Defaulting Party**"), the other Party (the "**Non-Defaulting Party**") shall have the following rights and remedies:

(i) To terminate this Agreement by providing written notice to the Defaulting Party of its exercise of its termination rights, which termination shall be effective twenty (20) Days after the Day such notice is deemed to be delivered under Section 11.4 (the "**Early Termination Date**");

(ii) To suspend performance of its obligations and duties hereunder immediately upon delivering written notice to the Defaulting Party of its intent to exercise its suspension rights;

(iii) To withhold any payments due to the Defaulting Party under this Agreement;

(iv) To recover in connection with such termination (A) the Pre-COD Termination Payment for a termination due to a Seller Event of Default occurring prior to COD, or (B) the Termination Payment set forth in Section 9.3, for a termination occurring due to (x) a Customer Event of Default occurring at any time during the Term, or (y) a Seller Event of Default occurring after COD;

(v) To exercise any rights pursuant to Section 5.2 to draw upon any Credit Support provided by the Defaulting Party (if applicable); and

(vi) To, subject to the express limitations on remedies set forth in this Agreement, pursue any other remedy given under this Agreement or Applicable Law, now or hereafter existing at law or in equity or otherwise.

(b) Each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance hereof. "**Commercially reasonable efforts**" by Seller shall require Seller to use commercially reasonable efforts to maximize the price for the Product received by Seller from third parties.

(c) The rights and remedies of a Party pursuant to this Article 9 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

9.3 ***Event of Default Termination Payment Calculation.***

(a) Upon termination of this Agreement as a result of an Event of Default (except as otherwise contemplated pursuant to Section 9.2(a)(iv), as to which the Pre-COD Termination Payment shall apply), the Non-Defaulting Party shall calculate an amount (the "**Termination Payment**") equal to the aggregate of [redacted]

[redacted] If the Termination Payment is a positive amount, the Defaulting Party shall pay the Termination Payment to the Non-Defaulting Party. If the Termination Payment is a negative amount, the amount of the Termination Payment shall be deemed to be zero and no payment shall be made to either Party.

(b) It is understood and agreed that it is not necessary for the Non-Defaulting Party to enter into a Replacement Contract to determine the per kWh price under a Replacement Contract and if a Replacement Contract is not entered into by the Non-Defaulting Party, the per kWh price with respect to a Replacement Contract shall be the fair market price of capacity (including the price for reasonably comparable energy products and attributes associated therewith) that would have been payable under a Replacement Contract as determined in a commercially reasonable manner by the Non-Defaulting Party. In determining the per kWh price when a Replacement Contract is not entered into, the Non-Defaulting Party may consider, among other valuations, quotations from leading dealers in energy contracts, the settlement prices on established, actively traded power exchanges, other bona fide third party offers and other commercially reasonable market information.

(c) [redacted]

(d) In the event of termination pursuant to this Section 9.3, the Parties shall be released and discharged from any obligations arising or accruing hereunder from and after the date of such termination and shall not incur any additional liability to each other as a result of such termination; provided that such termination shall not discharge or relieve either Party from any obligation that by its terms requires or contemplates performance after such termination event, and any obligation that has accrued prior to such termination or any indemnity obligations under Article 8 or the provisions of Section 11.1, which provisions shall survive any termination of this Agreement.

ARTICLE 10
FORCE MAJEURE; CHANGE IN LAW

10.1 ***Force Majeure Generally***. The performance of any obligation required hereunder shall be excused during the continuation of any Force Majeure event suffered by the Party whose performance is hindered in respect thereof, to the extent such Force Majeure event prevents the affected Party from performing its obligations under this Agreement. The affected Party's time for performance of any obligation that has been delayed due to the occurrence of a Force Majeure event shall be extended by a period of time reasonably necessary to compensate for the delay caused by the Force Majeure event, subject to any limitations on such extension provided for in this Agreement; provided, that the Party experiencing the delay or hindrance shall use diligent efforts to remedy or overcome the Force Majeure event and the suspension of performance shall be of no greater scope and of no longer duration than that required by the Force Majeure. The affected Party shall (i) as soon as reasonably practicable notify the other Party in writing describing in detail the occurrence of such Force Majeure event and the anticipated period of delay, but in no event shall the notification take longer than forty-eight (48) hours after the Party has determined that a Force Majeure event has occurred; (ii) within ten (10) Business Days after the Party has knowledge of the Force Majeure event, provide a written explanation of the Force Majeure event and its effect on the affected Party's performance and (iii) thereafter provide periodic written reports on the status of the affected Party's efforts to remedy its inability to perform and a good faith estimate of when it will be able to resume performance, in each case to the extent known at the time of the report; provided that, if the affected Party fails to notify or provide a written report to the other Party within the applicable timeframes set forth above, the affected Party shall not be entitled to relief as a result thereof until such time as the affected Party has remedied such failure. If any Force Majeure event prevents or substantially prevents a Party's performance under this Agreement for more than [redacted], then provided such Force Majeure shall be continuing to substantially prevent a Party's performance under this Agreement, either Party may terminate this Agreement upon notice to the other Party, but such termination shall be without liability of either Party except on account of amounts accrued prior to the date of such termination; [redacted] Each Party suffering a Force Majeure event shall take, or cause to be taken, such action as may be necessary to overcome or otherwise to mitigate, in all material respects, the effects of any Force Majeure event suffered by either of them and to provide written notice to the other Party of such actions, and to resume performance hereunder as soon as practicable under the circumstances.

10.2 ***Force Majeure Defined.***

(a) As used herein, "**Force Majeure**" shall mean any event or circumstance which wholly or partly prevents or delays the performance of any obligation arising under this Agreement, but only if and to the extent (i) such event is not within the reasonable control of the Party seeking to have its performance obligation(s) excused thereby, (ii) the

Party seeking to have its performance obligation(s) excused thereby has taken all reasonable precautions and measures in order to prevent or avoid such event or mitigate the effect of such event on such Party's ability to perform its obligations under this Agreement and which by the exercise of reasonable diligence such Party could not reasonably have been expected to avoid and which by the exercise of due diligence it has been unable to overcome, and (iii) such event is not the result of the negligence or the failure of, or caused by, the Party seeking to have its performance obligations excused thereby.

(b) Force Majeure shall not be based on:

(i) Customer's or Seller's inability to obtain transmission service and the unavailability or interruption of transmission service (unless the unavailability or the interruption was the result of a System Emergency or otherwise caused by an occurrence that itself would qualify as a Force Majeure event hereunder);

(ii) Customer's inability economically to use or resell all or a portion of the Product purchased hereunder;

(iii) Seller's inability to operate the Project economically notwithstanding the existence of this Agreement;

(iv) Seller's ability to sell all or a portion of the Product at a price greater than the price set forth in this Agreement;

(v) Seller's failure to obtain additional funds, including funds authorized by a state or the federal government or agencies thereof, to supplement the payments made by Customer pursuant to this Agreement;

(vi) a strike, work stoppage or labor dispute arising out of or limited only to any one or more of Seller, Seller's Affiliates, or any other third party employed by Seller to work on the Project; or

(vii) a Party's inability to pay amounts due to the other Party under this Agreement, except if such inability is caused solely by a Force Majeure event that disables physical or electronic facilities necessary to transfer funds to the payee Party.

10.3 ***Change in Tax Law***. If there is a change in Applicable Law such that the Project cannot qualify for [redacted] (such change, a "**Change in Tax Law**"), despite Seller's exercise of commercially reasonable efforts to do so, the Parties shall negotiate in good faith to find a mutually agreeable allocation of costs such that Seller can comply with its obligations under this Agreement. If the Parties are unable to reach such a resolution within [redacted] of the Parties initiating negotiations, then Seller shall have the right to terminate this Agreement, effective upon delivery of written notice to Customer. For the avoidance of doubt, neither Party shall have any liability to the other Party as a result of a termination due to a Change in Tax Law.

10.4 ***Compliance Cost Cap.***

(a) Except with respect to a Trade Event (which shall be governed by Section 2.2(b)), DC Change Event (which shall be governed by Section 2.2(c)), or Change in Tax Law (which shall be governed by Section 10.3), if a change in Applicable Law occurring after the Effective Date has increased Seller's known or reasonably expected costs and expenses to comply with Seller's obligations under this Agreement (any such costs, "**Compliance Costs**", and any such action required to be taken by Seller, with respect to obtaining, maintaining, conveying or effectuating Customer's use of Products, to comply with such change in Applicable Law, a "**Compliance Action**"), then the Parties agree that the maximum aggregate amount of Compliance Costs that Seller shall be required to bear during the Term to comply with all such Compliance Actions shall be capped at [redacted] (the "**Compliance Cost Cap**").

(b) If Seller reasonably anticipates the need to incur Compliance Costs in excess of the Compliance Cost Cap in order to take any Compliance Action, then Seller shall provide written notice to Customer of such anticipated Compliance Costs. The Parties shall promptly meet and negotiate in good faith to find a mutually agreeable allocation of such additional Compliance Costs such that Seller can comply with its obligations under this Agreement. If the Parties are unable to reach a resolution on the allocation of additional Compliance Costs within forty-five (45) Days of Seller's notice to Customer, then the matter shall be resolved pursuant to binding arbitration by a panel of three arbitrators to be conducted in the State of Washington according to the Commercial Arbitration Rules of the American Arbitration Association. Each Party shall select an arbitrator within fifteen (15) Days, which shall together select the third arbitrator within fifteen (15) Days. Each arbitrator shall have not less than ten (10) years' experience in the electric energy industry. The arbitration panel shall use commercially reasonable efforts to decide the matter within thirty (30) Days, and shall issue a written opinion in support of their decision. Each Party shall bear the costs of their own legal representation, and the Parties shall share equally all other costs of the arbitration. Notwithstanding anything herein to the contrary herein, Seller shall undertake all Compliance Actions necessary to maintain the Project in full compliance with Applicable Law and this Agreement pending the completion of the arbitration.

ARTICLE 11
MISCELLANEOUS

11.1 ***Confidential Information.***

(a) Notwithstanding the confidential and proprietary nature of Confidential Information, the Parties (each, the "**Disclosing Party**") may make Confidential Information available to the other (each, a "**Receiving Party**") subject to the provisions of this Section 11.1.

(b) Upon receiving or learning of Confidential Information, the Receiving Party shall treat such Confidential Information as confidential and use reasonable care not to

divulge such Confidential Information to any third party except as permitted hereunder or required by Applicable Law, subject to the restrictions set forth below.

(c) The restrictions of this Section 11.1 do not apply to:

(i) Release of this Agreement or any part or summary hereof to any Governmental Authority required for obtaining any approval or making any filing pursuant to Section 4.2; provided, that (a) Seller agrees to cooperate in good faith with Customer to maintain the confidentiality of the provisions of this Agreement by requesting confidential treatment with all filings to the extent appropriate and permitted by Applicable Law and (b) Seller shall provide reasonable notice to Customer, prior to disclosure (if not prevented by law), of the time and scope of the intended disclosure in order to provide Customer an opportunity to obtain a protective order or otherwise seek to prevent, limit the scope of, or impose conditions upon such disclosure;

(ii) Information which is, or becomes, publicly known or generally available to the public other than through the action of the Receiving Party in violation of this Agreement;

(iii) Information which is in the possession of the Receiving Party prior to receipt from the Disclosing Party or which is independently developed by the Receiving Party prior to the date hereof;

(iv) Information which is received from a third party which is not known (after due inquiry) by Receiving Party to be prohibited from disclosing such information pursuant to a contractual, fiduciary or legal obligation; and

(v) Information which the Receiving Party determines is required to be disclosed pursuant to Applicable Law; provided the Receiving Party shall provide reasonable notice to the Disclosing Party of the time and scope of the intended disclosure.

(d) Notwithstanding the foregoing, the Parties may provide any Confidential Information: (i) to a Transmission Provider as required for scheduling, settlement and billing, (ii) to any Person with review rights specified in other provisions of this Agreement and (iii) on a need-to-know basis to agents, trustees, employees, managers, officers, representatives, contractors, suppliers, consultants, accountants, financial advisors, experts, legal counsel, other professional advisors to the Parties, their Affiliates, and prospective investors and Lenders to either Party, provided that in the case of clauses (ii) and (iii), such Persons have been advised of the confidential nature of the information and have agreed to maintain the confidentiality thereof on terms and conditions at least as restrictive as those set forth herein and the Party providing Confidential Information to any such Person shall be responsible for the compliance with this Agreement by any such Person. If Confidential Information is the subject of a subpoena from a third party, the Receiving Party may disclose such Confidential Information on the advice of its counsel in compliance with the subpoena, provided that the Disclosing Party shall provide notice

thereof to the providing Party and make reasonable efforts to afford the providing Party an opportunity to obtain a protective order or other relief to prevent or limit disclosure of the Confidential Information. The obligation to provide confidential treatment to Confidential Information shall not be affected by the inadvertent disclosure of Confidential Information by either Party.

(e) Seller expressly understands and agrees that Customer is a governmental entity that is subject to the Washington Public Records Law. Notwithstanding anything to the contrary contained herein, Customer may disclose Confidential Information if Customer reasonably determines that disclosure is necessary or appropriate in connection with any public records request. In such case, Customer shall: (i) endeavor to keep Seller informed with respect to such disclosures; (ii) limit such disclosure to the minimum required to meet Customer's obligation as determined by Customer in its reasonable discretion; and (iii) provide reasonable notice to Seller, prior to disclosure (if not prevented by law), of the time and scope of the intended disclosure in order to provide Seller an opportunity to seek a protective order or otherwise seek to prevent, limit the scope of, or impose conditions upon such disclosure.

(f) Seller may disclose Confidential Information upon reasonable notice to Customer if Seller reasonably determines, based upon its or its Affiliates' status as a publicly traded company, that disclosure to the market, investors or a Governmental Authority is necessary under Applicable Law or relevant exchange rules, provided that Seller shall (x) endeavor to keep Customer informed with respect to such disclosures, and (y) limit such disclosure to the minimum required to meet Seller's obligation as determined by Seller in its reasonable discretion.

(g) Neither Party shall issue any press or publicity release, other than information that is required to be distributed or disseminated pursuant to Applicable Law (provided that the Disclosing Party has given notice to, and an opportunity to prevent disclosure by, the other Party as provided in Section 11.1(c)(v)), concerning this Agreement or the participation of the other Party in the transactions contemplated hereby without the prior written approval of the other Party. This provision shall not prevent the Parties from releasing information which is required to be disclosed in order to obtain permits, licenses, releases and other approvals relating to the Project, as are necessary in order to fulfill such Party's obligations under this Agreement.

(h) The obligations of the Parties under this Section 11.1 shall remain in full force and effect for [redacted] following the expiration or termination of this Agreement.

11.2 ***Successors and Assigns; Assignment.***

(a) This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors and permitted assigns. This Agreement shall not be assigned or transferred by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, delayed or conditioned. In connection with any permitted assignment pursuant to this Section 11.2(a), among other things, (i) the assignee shall expressly assume all of the assignor's existing and future obligations under

this Agreement (whether arising before or after such assignment) and (ii) the assignee shall agree in writing to be bound by the terms and conditions of this Agreement. In addition, with respect to any proposed assignment by Seller, Seller shall deliver or cause to be delivered to Customer evidence reasonably satisfactory to Customer of the technical and financial capability of the proposed assignee, it being understood that for any proposed assignee or transferee, technical capability may be demonstrated by a showing that the assignee or transferee or its Affiliates have a minimum of three (3) years' experience in the energy storage and operation business, or having a long-term contractual arrangement (not less than three (3) years in duration) with an operator for the Project meeting such requirements. Notwithstanding the foregoing, Customer's inclusion of this Project in a pooling agreement with other Customer resources, pursuant to which the Project may be managed, scheduled, or dispatched by a Person other than Customer, shall not be considered an assignment or transfer of the Project requiring Seller's consent under this Section 11.2.

(b) If either Party wishes to assign, transfer, or otherwise convey its interest in this Agreement, it shall provide prior written notice of such proposed conveyance and information demonstrating the assignee or transferee meets the qualifications of Section 11.2(a) to the non-assigning Party, along with any other reasonably requested information. Within thirty (30) Days' receipt of notice of any proposed assignment, the non-assigning Party shall either consent or object to the proposed assignment, such consent not to be unreasonably withheld, provided that the assigning Party shall promptly provide any information on the proposed assignee or transferee requested by the non-assigning Party during such term.

(c) Notwithstanding the foregoing, Seller may, without the consent of Customer:

(i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues, or proceeds hereof to any Lender in connection with any financing of the Project; or

(ii) transfer or assign this Agreement (which may be associated with the transfer of sale of all or substantially all of the equity interests in Seller) to any Affiliate of Seller that complies with the requirements set forth in Section 11.2(a).

(d) In accordance with Section 11.2(c)(i), Seller shall be permitted to assign this Agreement to a Lender as collateral for any financing or refinancing of the Project. Customer will, at Seller's expense, execute customary consents to collateral assignment of this Agreement in favor of any debt Lenders for collateral purposes as may be reasonably required by such Lenders, giving such Lenders "step-in" cure rights with respect to Events of Default, notices of such Events of Default, and such other rights as are customary in connection with the financing of projects similar to the Project. In addition, Customer will, at Seller's expense, execute customary estoppels in favor of Lenders providing tax equity financing. Notwithstanding the foregoing, Customer will not be obligated to agree to any provisions that would adversely affect the rights or increase the duties of Customer under

this Agreement in any material respect, including the extension of any cure periods or additional remedies for financing.

(e) Customer acknowledges that upon an event of default under any financing documents relating to the Project, any of the debt Lenders may (but shall not be obligated to) assume, or cause its designee or a new lessee or Customer of the Project, to assume, all of the interests, rights and obligations of Seller thereafter arising under this Agreement; provided that such Lender, its designee or a new lessee or Customer must comply with the qualifications requirements set forth in Section 11.2(a).

(f) Except in connection with Section 11.2(c)(i) above, each Party shall cause any permitted assignee or transferee of such Party's interests in, to or under this Agreement to assume all existing and future obligations of such Party to be performed under this Agreement. Except with respect to assignments pursuant to Sections 11.2(c)(i) and (ii) above, upon any permitted assignment or transfer of this Agreement, the assigning or transferring Party shall be, without further action by either Party, released and discharged from all obligations under this Agreement arising after the effective date of such assignment or transfer.

(g) Seller shall be required to assign this Agreement to any Person that becomes the direct owner of all or substantially all of the assets comprising the Project concurrently with the transfer of the applicable assets. For the sake of clarity, the foregoing shall not relieve Seller of the restrictions on assignment of this Agreement contained in this Section 11.2, and therefore if consent to the necessary assignment is required, any proposed transfer of all or substantially all of the assets comprising the Project shall require the consent of Customer to the same extent and subject to the same terms and conditions as for the required assignment of this Agreement.

(h) Any transfer by either Party not expressly permitted under this Section 11.2 shall be null and void *ab initio* and of no force or effect and further shall be deemed to be an Event of Default hereunder.

11.3 ***Financing Liens.***

(a) Seller, without approval of Customer, may, by security, charge or otherwise encumber its interest under this Agreement for the purposes of financing the development, construction and/or operation of the Project and Seller's Interconnection Facilities (including any tax equity financing).

11.4 ***Notices.***

(a) All notices and communications required to be given pursuant to this Agreement shall be:

(i) in writing;

(ii) delivered by hand (against receipt), recorded courier or express service, or sent by electronic mail; provided, that any communications delivered by electronic mail shall be in a portable document format (PDF); and

(iii) delivered, sent or transmitted to the address for the recipient's communications as stated below; provided, that if the recipient gives the other Party notice of another address, communications shall thereafter be delivered accordingly, and if the recipient has not stated otherwise when requesting an approval or consent, it may be sent to the address from which the request was issued.

(b) Any such notice and communication shall be deemed to have been received by a Party as follows:

(i) if delivered by hand or delivered by courier or express service, at the time of delivery; or

(ii) if sent by electronic mail properly addressed and dispatched, upon transmission, if during the recipient's regular business hours, and otherwise, on the next Business Day, provided that in either case such notice shall not be effective unless a copy of such notice shall be sent by registered or certified mail, return receipt requested, postage prepaid.

(c) The addresses for notices shall be as follows:

If to Seller:

Clearway Energy Group
5780 Fleet Street, Suite 130
Carlsbad, CA 92008
Attn: General Counsel
Email: legalnotices@clearwayenergy.com

with a copy to:

Attn: Clearway Asset Management
Email: am@clearwayenergy.com

If to Customer:

Public Utility District No. 2 of Grant County
30 C St. SW
Ephrata, WA 98823
Attn: Mike Bradshaw
Email: mbradshaw@gcpud.org

with a copy to:

Attention: Rich Flanigan
Email: rflanig@gcpud.org

11.5 ***Amendments***. This Agreement shall not be modified nor amended unless such modification or amendment shall be in writing and signed by authorized representatives of both Parties.

11.6 ***Records; Audit Rights.***

(a) Seller shall maintain complete and accurate records of and supporting documentation for all charges under this Agreement and all other data and/or information created, generated, collected, processed or stored by Seller in its performance under this Agreement ("**Contract Records**"). Unless Customer instructs Seller to delete or destroy any Contract Records or requests the return of such Contract Records to Customer, Seller shall retain Contract Records for a period of [redacted] after the date of the performance or after termination of this Agreement (the "**Retention Period**").

(b) Seller shall provide to Customer and its representatives through the Retention Period, access at reasonable hours to Seller personnel and facilities and to Contract Records and other pertinent information, all to the extent relevant to Seller's performance under this Agreement. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Late Payment Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of [redacted] from the rendition thereof, and thereafter any objection shall be deemed waived.

(c) Except as otherwise provided in this paragraph, each Party will be responsible for its own costs associated with any audit activity pursuant to this Section 11.6. If an audit reveals an overcharge of more than [redacted] Seller shall promptly reimburse Customer for the reasonable cost of the portion of such audit relating to the overcharge.

11.7 ***Waivers***. Failure to enforce any right or obligation by any Party with respect to any matter arising in connection with this Agreement shall not constitute a waiver as to that matter nor to any other matter. Any waiver by any Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing. Such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

11.8 ***Waiver of Certain Damages; Certain Acknowledgments***. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT (EXCEPT TO THE EXTENT INDEMNIFICATION PAYMENTS ARE MADE PURSUANT TO SECTION 8.1 AS A RESULT OF AN INDEMNIFIED PERSON'S OBLIGATION TO PAY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES TO A THIRD PARTY (EXCLUDING EITHER PARTY'S AFFILIATES, LENDERS, OFFICERS, DIRECTORS, SHAREHOLDERS OR MEMBERS) AS A RESULT OF ACTIONS INCLUDED IN THE PROTECTION AFFORDED BY THE INDEMNIFICATION SET FORTH IN SECTION 8.1), NEITHER CUSTOMER NOR SELLER (NOR ANY OF THEIR AFFILIATES, LENDERS, CONTRACTORS, CONSULTANTS, OFFICERS, DIRECTORS, SHAREHOLDERS, MEMBERS OR EMPLOYEES) SHALL BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE,

EXEMPLARY OR CONSEQUENTIAL DAMAGES UNDER, ARISING OUT OF, DUE TO, OR IN CONNECTION WITH ITS PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT OR ANY OF ITS OBLIGATIONS HEREIN, WHETHER BASED ON CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), STRICT LIABILITY, WARRANTY, INDEMNITY OR OTHERWISE, EXCEPT IN CASES OF FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. FOR BREACH OF ANY PROVISION OF THIS AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED TO BE THE EXCLUSIVE REMEDY THEREFOR, THE RIGHTS OF THE NON-DEFAULTING PARTY AND THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED AS SET FORTH IN THIS AGREEMENT AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED, EXCEPT IN CASES OF FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. THE PARTIES ALSO AGREE THAT IN ALL CASES WHERE THIS AGREEMENT PROVIDES FOR LIQUIDATED DAMAGES, INCLUDING WITHOUT LIMITATION ANY TERMINATION PAYMENT PROVIDED FOR HEREIN, THE ACTUAL DAMAGES WOULD BE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OBTAINING AN ADEQUATE REMEDY WOULD BE UNREASONABLY TIME CONSUMING AND EXPENSIVE, AND THEREFORE SUCH LIQUIDATED DAMAGES ARE A REASONABLE APPROXIMATION OF THE HARM AND NOT A PENALTY, AND IN NO EVENT SHALL SUCH LIQUIDATED DAMAGES BE CONSIDERED SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES.

11.9 ***Pre-COD Limitation of Liability***. Notwithstanding any provision herein to the contrary, Seller's aggregate liability under this Agreement shall be in accordance with the following: [redacted]

11.10 ***Survival***. Notwithstanding any provisions herein to the contrary, the obligations set forth in Article 8 and Sections 9.2, 11.1 and 11.4 through 11.27, shall survive (in full force) the expiration or termination of this Agreement. All other provisions of this Agreement that must survive the expiration or earlier termination of this Agreement in order to give full force and effect to the intent of the Parties shall remain in effect and be enforceable following such expiration or termination to such extent.

11.11 ***Severability***. If any of the terms of this Agreement are finally held or determined to be invalid, illegal or void, all other terms of the Agreement shall remain in effect, and that provision shall be severed from the remainder of the Agreement, and replaced automatically by a provision containing terms as nearly like the void, unlawful, or unenforceable provision as possible, or otherwise modified in such fashion as to preserve, to the maximum extent possible, the original intent of the Parties, and the Agreement, as so modified, shall continue to be in full force and effect; provided that the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any Applicable Law and the intent of the Parties.

11.12 ***Standard of Review***. The Parties specifically intend and acknowledge and agree that, except as otherwise expressly provided in this Agreement neither Party shall be permitted to make a filing with the FERC under any provision of the Federal Power Act or the regulations promulgated thereunder that seeks to amend or otherwise modify, or requests the FERC to amend or otherwise modify, any provision of this Agreement at any time during the Term, except to implement an amendment or other modification to this Agreement that has been reduced to writing and signed by authorized representatives of both Parties pursuant to Section 11.5. In addition, to the extent any third party or the FERC acting *sua sponte*, seeks to amend or otherwise modify, or requests the FERC to amend or otherwise modify, any provision of this Agreement, the standard of review shall be the "public interest" 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) (the "**Mobile-Sierra**" doctrine).

11.13 ***Governing Law***. This Agreement shall be interpreted and enforced in accordance with the laws of the State of Washington without regard to its conflicts of laws provisions.

11.14 ***Consent to Jurisdiction.***

(a) Each of the Parties hereto hereby irrevocably consents and agrees that any legal action or proceedings with respect to this Agreement shall be brought exclusively in any of the courts of the United States of America located in the United States District Court for the Western District of Washington, having subject matter jurisdiction, or if such court lacks subject matter jurisdiction, then the state court for King County, Washington.

(b) By execution and delivery of this Agreement and such other documents executed in connection herewith, each Party hereby:

(i) Irrevocably agrees to be bound by any final judgment (after any and all appeals) of any such court with respect to such documents;

(ii) Irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceedings with respect to such documents brought in any such court, and further irrevocably waives, to the fullest extent permitted by law, any claim that any such suit, action or proceedings brought in any such court has been brought in any inconvenient forum;

(iii) Agrees that service of process in any such action may be effected by mailing a copy thereof by certified mail, return receipt requested, postage prepaid, to such Party its address(es) set forth in Section 11.4, or at such other address of which the other Parties hereto shall have been notified; and

(iv) Agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law.

11.15 ***Waiver of Trial by Jury***. EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION

WITH THIS AGREEMENT AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT.

11.16 ***Disputes***. In the event of any good faith dispute, controversy or claim between the Parties arising out of or relating to this Agreement (collectively, a "**Dispute**"), the Parties shall refer the Dispute to the senior management of the Parties for resolution. If the Dispute has not been resolved within [redacted] after such referral to the senior management of the Parties, then either Party may pursue all of its remedies available in law or equity. The Parties agree to attempt to resolve all Disputes promptly, equitably and in a good faith manner, provided, however, that failure to resolve a Dispute shall not, standing alone, constitute a breach of this Agreement. Notwithstanding the existence of a Dispute, each Party shall fulfill its obligations in accordance with the terms hereof.

11.17 ***Specific Performance***. The Parties agree that no adequate remedy at law exists for a breach or threatened breach of any of the provisions of this Agreement, the continuation of which unremedied will cause the aggrieved Party to suffer irreparable harm. Accordingly, the Parties agree that the Parties shall be entitled, in addition to other remedies that may be available to them, to immediate injunctive relief from any breach or threatened breach of any of the provisions of this Agreement and to specific performance of their rights hereunder, as well as to any other remedies available at law or in equity. This right of specific enforcement is an integral part of the transactions contemplated by this Agreement and without that right, the Parties would not have entered into this Agreement. The Parties agree that they will not oppose the granting of an injunction, specific performance and other equitable relief on the basis that the opposing Party has an adequate remedy at law or an award of specific performance is not an appropriate remedy for any reason at law or in equity. The Parties shall not be required to provide any bond or other security in connection with any such order or injunction. The Parties also agree that (i) the seeking of any remedies pursuant to this Section 11.17 shall not in any way constitute a waiver of any right to seek any other form of relief that may be available under this Agreement.

11.18 ***No Third-Party Beneficiaries***. Except as set forth in Article 8 and in Sections 11.2, 11.3 and 11.8, this Agreement is intended solely for the benefit of the Parties hereto and nothing contained herein shall be construed to create any duty to, or standard of care with reference to, or any liability to, or any benefit for, any Person not a Party to this Agreement.

11.19 ***No Agency***. This Agreement is not intended, and shall not be construed, to create any association, joint venture, agency relationship or partnership between the Parties or to impose any such obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act as or be an agent or representative of, or otherwise bind, the other Party.

11.20 ***Disclaimer***. This Agreement shall not be interpreted to create any ownership or proprietary rights in the Project in favor of Customer, and Customer hereby disclaims, any right, title or interest in any part of the Project.

11.21 ***Further Assurances***. Upon the receipt of a written request from the other Party, each Party shall execute such additional documents, instruments and assurances and take such additional actions as are reasonably necessary to carry out the terms hereof. Neither Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this Section 11.20.

11.22 ***Good Faith***. The Parties shall act in accordance with principles of good faith and fair dealing in the performance of this Agreement.

11.23 ***Forward Contract***. Each Party acknowledges and agrees that it is their intent in entering into this Agreement that: (i) the transactions contemplated under this Agreement constitute "forward contracts" within the meaning of Title 11 of the United States Code (the "**Bankruptcy Code**"); (ii) Customer is a "forward contract merchant" within the meaning of the Bankruptcy Code; and (iii) Customer's rights under Section 9.2 of this Agreement constitute "contractual rights to liquidate" the transactions within the meaning of the Bankruptcy Code.

11.24 ***Separation of Functions***. Seller hereby acknowledges that (i) Customer is acting solely in its capacity as a local distribution company, (ii) the activities of Customer as Transmission Provider are outside the scope of this Agreement, and (iii) Customer shall not have any liabilities or obligations hereunder arising out of any actions or inactions of Customer acting in its role as Transmission Provider.

11.25 ***Captions; Construction***. All indexes, titles, subject headings, section titles, and similar items are provided for the purpose of reference and convenience and are not intended to affect the meaning of the content or scope of this Agreement. Any term and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any Party.

11.26 ***Entire Agreement***. This Agreement supersedes all other prior and contemporaneous understandings or agreements, both written and oral, between the Parties relating to the subject matter of this Agreement.

11.27 ***Counterparts; Electronic Delivery***. This Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including .pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com) or other similar transmission method, and any counterpart so delivered shall be deemed to have been duly and validly executed and delivered and be valid and effective for all purposes.

[Signature Page Follows]

IN WITNESS WHEREOF the Parties have executed this Agreement in the manner appropriate to each on the date set forth above.

ROYAL SLOPE BESS, LLC

By: _____
Name: [___]
Title: [___]

PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY

By: _____
Name: [___]
Title: [___]

ANNEX I

"**Affiliate**" shall mean, with respect to any Person, (i) each Person that directly or indirectly, Controls such designated Person; (ii) any Person that directly or indirectly owns, controls, or holds with power to vote fifty percent (50%) or more of any class of voting securities of such designated Person or fifty percent (50%) or more of the equity interest in such designated Person; (iii) any Person of which such designated Person beneficially owns or holds fifty percent (50%) or more of the equity interest or (iv) any Person that is under common control with such designated Person.

"**Aggregate Liquidated Damages Cap**" shall have the meaning set forth in Exhibit G.

"**Agreement**" shall have the meaning set forth in the first paragraph hereof.

"**Ancillary Services**" shall mean those services which can be provided to or by the Project in addition to capacity and Energy, and which are described as "ancillary services" under any applicable OATT.

"**Applicable Law**" shall mean, with respect to any Person or the Project, all laws, statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, tariffs, regulations, Governmental Approvals, licenses and permits, directives and requirements of all regulatory and other Governmental Authorities as may be amended, in each case applicable to or binding upon such Person or the Project (as the case may be), including the standards and criteria of the NERC, FERC, the Western Power Pool, and WECC.

"**Augmentation Outage**" means an Outage that is not a Forced Outage or a Planned Outage and refers to the shutdown or unavailability of all or a portion of the Project below the Final Nameplate Capacity for the purpose of a battery augmentation project.

"**Average Cumulative Power Capability**" shall mean the average Cumulative Power Capability in a Performance Measurement Period. The Average Cumulative Power Capability shall be determined by averaging the Cumulative Power Capability for each hour in the Performance Measurement Period, as reported by the SCADA System.

"**Average Monthly Charge Power Capability**" shall mean the average Charge Power Capability in a calendar month. The Average Monthly Charge Power Capability shall be determined by averaging the Charge Power Capability for each hour in such month, as reported by the SCADA System.

"**Average Monthly Discharge Power Capability**" shall mean the average Discharge Power Capability in a calendar month. The Average Monthly Discharge Power Capability shall be determined by averaging the Discharge Power Capability for each hour in such month, as reported by the SCADA System.

"**Average Tested Discharge Energy**" shall mean the average Tested Discharge Energy in a Performance Measurement Period. The Average Tested Discharge Energy shall be determined by averaging the Tested Discharge Energy for each day in the Performance Measurement Period (as determined by the most recently performed Performance Test as of each such day).

"**Average Tested RTE**" shall mean the average Tested RTE in a Performance Measurement Period. The Average Tested RTE shall be determined by averaging the Tested RTE for each day in the Performance Measurement Period (as determined by the most recently performed Performance Test as of each such day).

"**Balancing Authority**" shall have the meaning set forth in the NERC Glossary of Terms and shall be designated by Seller from time to time in its sole discretion. The Balancing Authority in which the Project will participate initially will be the Bonneville Power Administration.

"**Bankruptcy Code**" shall have the meaning set forth in Section 11.23.

"**BESS**" means all systems and subsystems, including lighting, enclosures, computers, electronics, HVAC, fire systems, racking, a lithium-ion cells, directly relating or pertaining to the storage of Energy at the Project.

"**BESS Controller**" means a device used to regulate and control the networked inverters, batteries, and Project equipment in order to meet specified setpoints and modulate grid parameters at the Delivery Point.

"**Bureau of Reclamation Permits**" shall have the meaning set forth in Exhibit H.

"**Business Day**" shall mean every day other than a Saturday or Sunday or any other day on which banks in the State of Washington are permitted or required to remain closed.

"**CAISO**" shall mean the California Independent System Operator.

"**Capacity Attributes**" shall mean any and all present or future (known or unknown) defined characteristics, certificates, tags, credits, or Ancillary Service attributes, whether general in nature or specific as to the location or any other attribute of the Project, intended to value any aspect of the capacity of the Project to store Energy or produce Ancillary Services, including those in respect of the WRAP Program.

"**CCA**" means the state of Washington's Climate Commitment Act.

"**Change in Tax Law**" shall have the meaning set forth in Section 10.3.

"**Charge Power Capability**" shall have the meaning set forth in Exhibit G.

"**Charging Energy**" means Energy delivered by Customer to Seller at the Delivery Point from the Solar Project in accordance with a Charging Notice, as measured by Seller's Primary Meter. For the avoidance of doubt, Charging Energy shall include all energy stored by the Project and discharged at a later time, as well as energy associated with efficiency losses, but expressly excludes Station Service energy.

"**Charging Notice**" means the operating instruction, including Generator Set-Point, and any subsequent updates, given by Customer to Seller, directing delivery of Charging Energy to the Project to charge at a specific MW rate to a specified Stored Energy Level. The Charging Notice shall specify: (i) the period of time in which Seller shall charge the Project; and (ii) the Stored

Energy Level that Seller shall charge the Project to by the end of the specified time in the Charging Notice.

"**Claim Notice**" shall have the meaning set forth in Section 8.1(d).

"**COD Delay Damages**" shall have the meaning set forth in Section 4.4(b).

"**Code**" means the Internal Revenue Code of 1986, as the same may be amended from time to time, including any amendments or any substitute or successor provisions thereto.

"**Commercial Operation Certificate**" has the meaning set forth in Exhibit E.

"**Commercial Operation Date**" or "**COD**" shall mean, with respect to the Project, the date that the following conditions have been met: (i) the Installed Capacity is not less than [redacted] of the Project, and is capable of receipt of Charging Energy at the Delivery Point, charging and storing Energy, and delivery of Product to the Delivery Point pursuant to the terms of this Agreement; (ii) the Project has been fully tested and commissioned and all related facilities and rights have been completed or obtained to allow for normal and continuous operation of the Project at the Installed Capacity; (iii) Seller shall have delivered the true, correct, and complete Commercial Operation Certificate in the form of Exhibit E from Seller; and (iv) Seller shall have received all local, state, and federal Governmental Approvals and other approvals as may be required by Applicable Law for the construction, operation, and maintenance of the Project.

"**Compliance Action**" shall have the meaning set forth in Section 10.4.

"**Compliance Cost Cap**" shall have the meaning set forth in Section 10.4.

"**Compliance Costs**" shall have the meaning set forth in Section 10.4.

"**Confidential Information**" means information that one Party (or an Affiliate) discloses to the other Party under this Agreement, and that is marked as confidential or would normally be considered confidential information under the circumstances. It does not include information that is independently developed by the recipient, is rightfully given to the recipient by a third party without confidentiality obligations, or becomes public through no fault of the recipient.

"**Contract Rate**" shall mean [redacted], non-escalating (as such amount may be adjusted pursuant to Section 2.2).

"**Contract Records**" shall have the meaning set forth in Section 11.6.

"**Contract Year**" shall mean any consecutive twelve (12)-month period during the Term, commencing at 00:00 Pacific Prevailing Time on the Commercial Operation Date and ending at 24:00 Pacific Prevailing Time on the day before the first anniversary of the Commercial Operation Date, and each anniversary thereof.

"**Control**" of a Person, including the terms "controls," "is controlled by," and "under common control with," means the possession, directly or indirectly through one or more

intermediaries, of (a) a voting interest of more than fifty percent (50%) in such Person, or (b) the power to either (i) elect a majority of the directors (or Persons with equivalent management power) of such Person, or (ii) direct or cause the direction of the management or policies of such Person, whether through the ownership of securities or partnership, membership or other ownership interests, by contract, by operation of law or otherwise.

"**Credit Rating**" means, with respect to any entity, the corporate credit or issuer rating then assigned to such entity's unsecured, senior long-term debt obligations (not supported by third-party credit enhancements) or, if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by the S&P, Moody's and/or Fitch.

"**Credit Support**" shall mean the Initial Development Security, the Secondary Development Security, or the Performance Security, or all or some of the foregoing, as the context may require.

"**Cumulative Power Capability**" shall have the meaning set forth in Section 2.2(a).

"**Customer**" shall have the meaning set forth in the first paragraph of this Agreement.

"**Customer Event of Default**" means an Event of Default of Customer.

"**Day**" or "**day**" shall mean a period of twenty-four (24) consecutive hours beginning at 00:00 hours Pacific Prevailing Time on any calendar day and ending at 24:00 hours Pacific Prevailing Time on the same calendar day.

"**DC Change Event**" shall have the meaning set forth in Section 2.2(c).

"**DC Event Certification**" shall have the meaning set forth in Section 2.2(c).

"**DC Event Notice**" shall have the meaning set forth in Section 2.2(c).

"**Defaulting Party**" shall have the meaning set forth in Section 9.2.

"**Delivery Point**" means the Vantage 230 kV Substation.

"**Delivery Term**" shall have the meaning set forth in Section 3.1.

"**Development Security**" shall mean either the Initial Development Security or the Secondary Development Security, as the context may require.

"**Discharge Guarantee**" shall have the meaning set forth in Exhibit G.

"**Discharge Power Capability**" shall have the meaning set forth in Exhibit G.

"**Discharged Energy**" shall mean all Energy delivered to Customer by Seller pursuant to a Discharging Notice at the Delivery Point in accordance with this Agreement.

"**Discharging Notice**" means the operating instruction, including Generator Set-Points, and any subsequent updates, given by Customer to Seller, directing the Project to discharge Discharged Energy at a specific MW rate to a specified Stored Energy Level. The Discharging Notice shall specify: (i) the period of time in which Seller shall discharge the Project; and (ii) the Stored Energy Level that Seller shall discharge the Project to by the end of the specified time in the Discharging Notice. For the avoidance of doubt, any Customer request to initiate a Performance Test shall not be considered a Discharging Notice.

"**Disclosing Party**" shall have the meaning set forth in Section 11.1(a).

"**Dispatch Instruction**" means either a Charging Notice or Discharging Notice.

"**Dispute**" shall have the meaning set forth in Section 11.16.

"**Domestic Content Tax Credits**" means Investment Tax Credits corresponding and attributable to the domestic content bonus credit pursuant to Section 48(a)(12) or 48E(a)(3)(B) of the Code.

"**Early Termination Date**" shall have the meaning set forth in Section 9.2(a)(i).

"**EC Event Certification**" shall have the meaning set forth in Section 2.2(d).

"**EC Event Notice**" shall have the meaning set forth in Section 2.2(d).

"**Effective Date**" shall have the meaning set forth on the first page of this Agreement.

"**Energy**" shall mean electric energy in the form of three (3) phase, sixty (60) Hertz, alternating current.

"**Energy Community Bonus Credits**" means Investment Tax Credits corresponding and attributable to the energy community bonus credit pursuant to Section 48(a)(14) or 48E(a)(3)(A) of the Code.

"**Energy Imbalance Market**" shall mean the California Independent System Operator's Western Energy Imbalance Market.

"**Equivalent Full Cycle**" equals the Final Nameplate Capacity multiplied by four (4) hours.

"**Event of Default**" shall have the meaning set forth in Section 9.1.

"**Excused Delay**" shall have the meaning set forth in Section 4.4(a)(ii).

"**Exercise Notice**" shall have the meaning set forth in Section 3.3(a).

"**Failed Performance Test**" shall have the meaning set forth in Exhibit G.

"**Federal Permits**" shall have the meaning set forth in Exhibit H.

"**Federal Power Act**" shall mean the Federal Power Act of 1935, 16 U.S.C. § 791a, et seq.

"**FERC**" shall mean the Federal Energy Regulatory Commission or any successor government agency.

"**Final Nameplate Capacity**" shall mean the actual nameplate capacity of the Project on the Commercial Operation Date or, subject to Section 4.4(d), the date that is [redacted] after the Commercial Operation Date.

"**Fitch**" means Fitch Ratings, Ltd., or its successor, or, in the event that there is no such successor, a nationally recognized credit rating agency.

"**Force Majeure**" shall have the meaning set forth in Section 10.2.

"**Forced Outage**" shall mean an Outage of the Project, or a portion thereof, other than as a Planned Outage or an Augmentation Outage. A Forced Outage shall not include an Outage that may be deferred to a Planned Outage or Augmentation Outage consistent with Prudent Operating Practices and without causing or the reasonable likelihood of causing safety risk, damage to equipment or additional costs.

"**Generator Set-Point**" means an analog or digital signal updated every four (4) seconds and sent to the Project by Customer, the Balancing Authority or the Transmission Provider with respect to the Project operations.

"**Governmental Approvals**" shall have the meaning set forth in Section 4.2.

"**Governmental Authority**" shall mean any federal, state, local or municipal government, governmental department, city council, public power authority, public utility district, joint action agency, commission, board, bureau, agency, or instrumentality, or any judicial, regulatory or administrative body, having jurisdiction as to the matter in question, including the NERC, and FERC.

"**Guaranteed Commercial Operation Date**" shall mean [redacted], as may be extended in accordance with the terms of this Agreement, including pursuant to any Excused Delay.

"**Guaranteed Discharge Energy Damages**" shall have the meaning set forth in Exhibit G.

"**Guaranteed RTE Damages**" shall have the meaning set forth in Exhibit G.

"**Incentives**" shall mean (i) any and all present or future (whether known or unknown) local, state, and federal production tax credits, investment tax credits (including any ITCs), and any other tax credits or benefits which are or will be generated by the Project and/or the provision of the Storage Services, and (ii) present or future (whether known or unknown) cash payments, alternative digital currencies or cryptocurrencies provided or made available by non-governmental entities to the Project, or outright grants of money relating in any way to the Project.

"**Incomplete Performance Test**" shall have the meaning set forth in Exhibit G.

"**Indemnified Party**" shall have the meaning set forth in Section 8.1(d).

"**Indemnifying Party**" shall have the meaning set forth in Section 8.1(d).

"**Independent Engineer**" shall mean a licensed and registered professional engineering consulting firm selected by Seller from one or more of the following: [redacted]; or any other such firm selected by Seller subject to approval in advance by Customer (not to be unreasonably withheld).

"**Independent Valuator**" shall mean, as mutually agreed by the Parties, any independent internationally recognized investment bank, accounting firm or other recognized professional services firm that is regularly engaged in providing valuations of power projects comparable to the Project.

"**Initial Development Security**" shall have the meaning set forth in Section 5.1(a).

"**Installed Capacity**" shall mean, on any day, the aggregate capacity of the Project that (i) has been installed, commissioned and tested in accordance with the applicable manufacturer's requirements and engineering, procurement and construction contracts and (ii) is able to deliver Product to the Delivery Point through materially complete facility systems; provided, however, in no event shall the Installed Capacity be greater than the Final Nameplate Capacity.

"**Interconnection Agreement**" shall mean the Generator Interconnection Agreement to be entered into by and between Seller and Transmission Provider with respect to the Project, as amended from time to time.

"**Interconnection Agreement Counterparty**" shall mean any counterparty to the Interconnection Agreement and/or SISA, as applicable, other than Seller.

"**Interconnection Delay**" shall mean a delay in achievement of the Commercial Operation Date caused by an Interconnection Agreement Counterparty or Transmission Provider; provided, Seller has used commercially reasonable efforts to minimize any delays caused by such Interconnection Agreement Counterparty or Transmission Provider.

"**Investment Grade Credit Rating**" shall mean a Credit Rating by at least two ratings agencies equal to or better than "**BBB-**" by S&P, "**Baa3**" by Moody's or "**BBB-**" by Fitch.

"**Investment Tax Credit**" or "**ITC**" means the investment tax credit established pursuant to Section 48 or 48E of the Code.

"**Late Payment Rate**" shall have the meaning set forth in Section 2.6(d).

"**Lender**" means any person or entity (i) providing senior or subordinated construction, interim, back leverage or long-term debt, equity or tax equity financing or refinancing for or in connection with the development, construction, purchase, installation or operation of the Project, whether that financing or refinancing takes the form of private debt, equity, public debt or any

other form (including financing or refinancing provided to a member or other direct or indirect owner of Seller), including any equity or tax equity investor directly or indirectly providing financing or refinancing for the Project or purchasing equity ownership interests of Seller and/or its Affiliates, and any trustee or agent acting on their behalf, (ii) providing interest rate or commodity protection under an agreement hedging or otherwise mitigating the cost of any of the foregoing obligations, (iii) participating in a lease financing (including a sale leaseback or leveraged leasing structure) with respect to the Project, and/or (iv) acting as issuing bank for any Letter(s) of Credit issued pursuant hereto.

"**Letter of Credit**" means an irrevocable, transferable, standby letter of credit, issued by a Qualified Institution substantially in the form of Exhibit C, or in any other form which is reasonably acceptable to the beneficiary thereof.

"**Market Value**" shall mean, (a) where the Defaulting Party is Customer, the excess, if any, of (i) the present value as of the Early Termination Date of payments that would have been made under this Agreement for the period from the Early Termination Date to the scheduled expiration of the Term, less (ii) the present value as of the Early Termination Date of payments that are to be made under a Replacement Contract (whether or not actually entered into by Seller) during its term and (b) where the Defaulting Party is Seller, the excess, if any, of (i) the present value as of the Early Termination Date of payments that are to be made under a Replacement Contract (whether or not actually entered into by Customer) during its term, less (ii) the present value as of the Early Termination Date of payments that would have been made under this Agreement for the period from the Early Termination Date to the then scheduled expiration of the Term.

"**Maximum Contract Rate**" shall have the meaning set forth in Section 2.2(e).

"**Maximum Contract Rate Termination**" shall have the meaning set forth in Section 2.2(e).

"**Maximum Discharge Capacity**" has the meaning set forth in Exhibit B.

"**Meter**" shall mean a settlement quality, utility grade instrument and associated equipment meeting applicable electric industry standards as established by CAISO for SQMD, National Electrical Manufacturers Association and American National Standards Institute and used to measure and record the quantity and the required delivery characteristics of Energy delivered hereunder. Metering equipment must meet requirements for the most recent version of the CAISO Business Practice Manual for Metering as it relates to the creation of SQMD.

"**Metered Energy**" shall mean the Charging Energy and the Discharged Energy.

[redacted]

[redacted]

"**Milestones**" shall have the meaning set forth in Section 4.4.

"**Monthly Payment**" shall have the meaning set forth in Section 2.2(a).

"**Moody's**" shall mean Moody's Investor Service, Inc. rating group, or its successor.

"**MW**" shall mean a megawatt of capacity.

"**MWh**" shall mean a megawatt-hour of Energy (rounded to the third decimal point).

"**Nameplate Dischargeable Energy**" shall mean, as of the date of determination, an amount (in MWh) equal to (i) the Installed Capacity, *multiplied by* (ii) four (4) hours.

"**Nameplate RTE**" shall have the meaning set forth in Exhibit G.

"**NERC**" means the North American Electric Reliability Corporation.

"**Non-Defaulting Party**" shall have the meaning set forth in Section 9.2.

"**OATT**" shall mean a Transmission Provider's FERC-approved open access transmission tariff (or in the case of the Bonneville Power Administration, its equivalent tariff).

"**Operating Parameters**" shall have the meaning set forth in Section 3.3(a).

"**Operating Procedures**" shall have the meaning set forth in Section 2.10(b).

"**Other Project(s)**" means the electrical energy generating or electric energy storage assets and related assets and entities, other than the Project and the Solar Project, utilizing the Shared Facilities to enable delivery of energy from each such Other Project to the Delivery Point or other points of interconnection, together with all materials, equipment systems, structures, features, and improvements necessary to produce electric energy at each such other generating facility or charge and discharge energy at such other energy storage facility, but with respect to the Shared Facilities, excluding Seller's interest therein.

"**Other Seller(s)**" means the seller(s) from the Other Project(s), including the Solar Owner.

"**Outage**" means any period where the capacity of the Project is unavailable for any reason.

"**Outside Commercial Operation Date**" has the meaning set forth in Section 4.5(d).

"**Pacific Prevailing Time**" or "**PPT**" shall mean the prevailing time in the eighth time zone west of Greenwich Mean Time.

"**Parties**" shall have the meaning set forth in the first paragraph of this Agreement.

"**Party**" shall have the meaning set forth in the first paragraph of this Agreement.

"**Performance Guarantee**" means either the Discharge Guarantee or the RTE Guarantee, or both, as the context may require.

"**Performance Measurement Period**" means any consecutive [redacted] period during the Delivery Term, starting in the [redacted] Contract Year.

"**Performance Security**" shall have the meaning set forth in Section 5.1(b).

"**Performance Test**" shall mean a test of the Project's performance performed in accordance with Exhibit G measuring the Tested Charge Energy, Tested Discharge Energy, and the Performance Guarantees and other performance metrics contained in Exhibit G.

"**Person**" shall mean an individual, partnership, corporation, business trust, joint-stock company, trust, unincorporated association, joint venture, Governmental Authority, limited liability company or any other entity of whatever nature.

"**Planned Nameplate Capacity**" shall mean 260 MW.

"**Planned Nameplate Dischargeable Energy**" has the meaning set forth in Exhibit B.

"**Planned Outage**" shall mean the removal of equipment from service availability for inspection, maintenance and/or general overhaul of one or more pieces of equipment or equipment groups that affects the Product.

"**Point of Delivery Limitation**" means 260 MW.

"**Pre-COD Termination Payment**" shall have the meaning set forth in Section 4.5(f).

"**Prime Rate**" shall mean the rate of interest per annum from time to time published in the money rates section of The Wall Street Journal or any successor publication thereto as the "prime rate" then in effect; provided that, in the event such rate of interest is less than zero, such rate shall be deemed to be zero for purposes of this Agreement; and provided further that if such rate of interest, as set forth from time to time in the money rates section of The Wall Street Journal, becomes unavailable for any reason, the "**Prime Rate**" shall mean a successor rate of interest per annum mutually agreed to as between Customer and Seller.

"**Product**" means all Storage Services, Ancillary Services, and Capacity Attributes generated by or otherwise associated with the Project.

"**Product Qualification Cost Cap**" shall have the meaning set forth in Section 2.3(b).

"**Project**" shall mean the BESS to be located at the Site, including necessary ancillary electrical, metering, SCADA System and control equipment, Seller's Interconnection Facilities and any and all additions, replacements or modifications hereto. The final design and specifications of the Project will be chosen from the configurations set forth in Exhibit A hereto pursuant to the terms of Section 4.3(a) hereof.

"**Project Assets**" shall have the meaning set forth in Section 3.3(a).

"**Prudent Operating Practices**" shall mean the practices, methods and standards of professional care, skill and diligence engaged in or approved by a significant portion of the electric generation industry for energy storage facilities in the U.S. of similar size, type, and design, that, in the exercise of reasonable judgment, in light of the facts known at the time, would have been expected to accomplish results consistent with Applicable Law, reliability, safety, environmental protection and reasonable standards of economy and expedition.

"**PT Report**" shall have the meaning set forth in Exhibit G.

"**PV Energy**" shall have the meaning set forth in Section 2.8(a)(ii).

"**Qualified Institution**" means a commercial bank or trust company organized under the laws of the United States or a political subdivision thereof, or a United States branch office of a Japanese, Canadian, or Australian bank, which (i) has an Investment Grade Credit Rating, and (ii) has a net worth of at least Ten Billion Dollars ($10,000,000,000) at the time of issuance of a Letter of Credit.

"**Receiving Party**" shall have the meaning set forth in Section 11.1(a).

"**Replacement Contract**" shall mean a contract for the purchase and sale of capacity from an energy storage facility that (i) is entered into with a counterparty that has the same or similar creditworthiness as the Defaulting Party hereunder as of the Effective Date (or a counterparty whose obligations under the Replacement Contract are guaranteed by an entity with such creditworthiness), (ii) has a term substantially the same as the remaining unexpired portion of the Term, (iii) provides for the Storage Services and Capacity Attributes associated with the production of the energy to be transferred to the energy customer under such contract, and (iv) has an output point of interconnection that is the same as or substantially similar to the Delivery Point hereunder, it being understood that commercially reasonable adjustments to the price under such contract shall be made to take into account, among other possible commercially material differences, differences due to length of term, capacity factors, products sold, and the location of the point of interconnection under the Replacement Contract compared to the Delivery Point hereunder.

"**Required Permits**" shall have the meaning set forth in Section 4.2.

"**Required Permits Deadline**" shall have the meaning set forth in Section 4.2.

"**Required Permits Rejection**" shall have the meaning set forth in Section 4.2.

"**Retention Period**" shall have the meaning set forth in Section 11.6(a).

"**RTE Guarantee**" shall have the meaning set forth in Exhibit G.

"**S&P**" shall mean Standard & Poor's rating group (a division of McGraw-Hill, Inc.), or its successor.

"**SCADA System**" means the Project's supervisory control and data acquisition system.

"**Secondary Development Security**" shall have the meaning set forth in Section 5.1(a).

"**Seller**" shall have the meaning set forth in the first paragraph of this Agreement.

"**Seller's Check Meters**" shall have the meaning set forth in Section 6.1(a)(iv).

"**Seller's Designated Check Meter**" shall mean Seller's Check Meter, as adjusted to reflect the Energy delivered to the Delivery Point, designated from time to time by Seller to act as a backup Meter pursuant to Section 6.2.

"**Seller Event of Default**" means an Event of Default of Seller.

"**Seller's Interconnection Facilities**" shall mean the interconnection facilities, control and protective devices and metering facilities required to connect the Project with the Transmission Provider's Transmission System up to, and on Seller's side of, the Delivery Point.

"**Seller's Offer**" shall have the meaning set forth in Section 3.2.

"**Seller's Primary Meter**" shall mean the Meter installed to reflect the Energy delivered to the Delivery Point.

"**Shared Facilities**" means the gen-tie lines, substations, or other equipment, permits, contract rights, and other assets and property (real or personal), in each case, as necessary to enable delivery of energy from the Project (which is excluded from "Shared Facilities") to the Delivery Point or other points of interconnection, that are used in common with the Solar Project and any Other Project(s).

"**Shared Facilities Agreement**" shall have the meaning set forth in Section 2.8(a)(i).

"**Shortfall Period**" shall have the meaning set forth in Exhibit G.

"**Site**" shall mean the real property on which the Project is to be built and located, as further described in Exhibit A.

"**Solar Owner**" means Royal Slope Solar, LLC, a Delaware limited liability company.

"**Solar PPA**" means that certain Power Purchase Agreement, dated as of [redacted] between the Solar Owner and Customer, pursuant to which the Solar Owner delivers and sells, and Customer receives and purchases, certain electricity products produced by the Solar Project.

"**Solar Project**" shall mean that certain solar photovoltaic project which is co-located with the Project and that shares interconnection capacity with the Project under the SISA.

"**SQMD**" shall mean Settlement Quality Meter Data.

"**Station Service**" means, during periods in which the battery is idle (i.e. during periods in which the Project is not charging or discharging pursuant to a Charging Notice or Discharging Notice) the electric energy that is used within the Project to power certain lights, motors, temperature control systems, control systems and other ancillary electrical loads that are necessary for operation of the Project (or as otherwise defined by the retail energy provider). Seller is solely responsible for Station Service.

"**Storage Attributes**" shall mean any and all present or future (known or unknown) attributes associated with the capability of the Project to store Energy or produce Ancillary Services, including but not limited to current or future credits, credit privileges, emissions reductions, offsets, allowances, registrations, recordations, memorializations and other benefits, rights, powers or privileges, however denominated, including as such may be provided for in any currently existing or subsequently enacted Applicable Law attributable to the Project or the Energy that Customer stores with Seller hereunder, other than Capacity Attributes. Examples of Storage Attributes include, but are not limited to: incentives from the CCA, the avoidance of the emission of any gas, chemical, pollutant, or other substance into the air, soil or water, or the reduction, displacement or offset of emissions resulting from fuel combustion at another location pursuant to any federal, state or local legislation or regulation addressing "greenhouse gases" or similar emissions, set-aside allowances and/or allocations from emissions trading programs, as well as environmental or renewable energy credit trading program or any similar program now existing or hereafter developed under federal, state, local or foreign legislation or regulation or by any independent certification board or group generally recognized in the electric power industry. Storage Attributes include all rights to report ownership of any of the foregoing to any entity, organization, governmental body, or otherwise at Customer's sole discretion.

"**Storage Services**" shall mean the acceptance of Charging Energy at the Project, the storing of Energy in the Project, and the delivery of Discharged Energy from the Project at the Delivery Point, all in accordance with Customer's Dispatch Instructions and subject to the terms and conditions of this Agreement.

"**Stored Energy Level**" means, at a particular time, the amount of electric energy stored in the Project, expressed in MWh.

"**Successful Performance Test**" shall have the meaning set forth in Exhibit G.

"**Surety Bond**" means a bond that is issued by a surety or insurance company with, in either case, a Credit Rating of at least "A-" by S&P or "A3" by Moody's, substantially in the form of Exhibit D or such other form reasonably acceptable to the beneficiary.

"**Surplus Interconnection Service Agreement**" or "**SISA**" shall mean the interconnection agreement applicable to a "Surplus Interconnection Request" pertaining to a "Large Generating Facility", each as defined under Transmission Provider's OATT.

"**System Emergency**" shall mean an "Emergency Condition" (as defined in a Transmission Provider's OATT).

"**Term**" shall have the meaning set forth in Section 3.1.

"**Termination Payment**" shall have the meaning set forth in Section 9.3(a).

"**Tested Discharge Energy**" shall have the meaning set forth in Exhibit G.

"**Tested RTE**" shall have the meaning set forth in Exhibit G.

"**Trade Event**" means [redacted]

"**Trade Event Certification**" shall have the meaning set forth in Section 2.2(b).

"**Trade Event Certified Costs**" shall have the meaning set forth in Section 2.2(b).

"**Trade Event Cost Cap**" shall have the meaning set forth in Section 2.2(b)(ii).

"**Trade Event Notice**" shall have the meaning set forth in Section 2.2(b).

"**Trade Event Termination**" shall have the meaning set forth in Section 2.2(b)(ii).

"**Transmission Point of Receipt**" means the applicable point of receipt for delivery of transmission service from the Transmission Provider to the Project, as set forth in the applicable transmission service agreement. As of the Effective Date, the Transmission Point of Receipt is the Rocky Ford Substation.

"**Transmission Provider**" shall mean Bonneville Power Administration and/or any other entity (or its designated agent) that owns, controls, or operates transmission or distribution facilities used for the transmission of electricity under this Agreement anywhere from source to sink, provides service under a tariff (including, in the event of a pseudo-tie of the Project in Customer's distribution system or similar arrangement, Customer), or a regulatory body that regulates such entity.

"**Transmission Provider's Transmission System**" shall mean the facilities for the transmission of Energy from and after the Delivery Point.

"**Washington State and Local Sales and Use Taxes**" means Washington state and local retail sales and use taxes (including Washington State Retail Sales Taxes) imposed pursuant to RCW 82.08, RCW 82.12 or RCW 82.14, if any, and other substantially similar sales and use taxes imposed under Washington state or local law (including, by reason of a change in Applicable Law)

which, for purposes of clarity, the Parties specifically agree shall not include any business and occupation taxes.

"**WECC**" shall mean the Western Electricity Coordinating Council.

"**WRAP Program**" shall mean the Western Resource Adequacy Program administered by the Western Power Pool.

EXHIBIT A

DESCRIPTION OF THE PROJECT[1]

Project Name: Royal Slope BESS

Planned Nameplate Capacity: 260 MW

Owner: Royal Slope BESS, LLC

Location: 46.893178 deg N, 11987835 deg W

Description of the Site: [redacted]

Description of Equipment:

Battery Modules [redacted]

Battery Management System: [redacted]

Inverters: [redacted]

Main Power Transformer: [redacted]

Map

[See attached]

[redacted]

EXHIBIT B

Storage Services and Operating Parameters

If applicable, the following Operating Parameters should be updated after any Performance Test with the appropriate values. As it relates to these figures, for the day-to-day operation of the Project, if the real-time SCADA System feed differs from the figures in the Operating Parameter table below, the real-time operating conditions from the SCADA System shall be relied upon.

Operating Parameter	Values
Charging Source	Solar Project
Planned Nameplate Capacity	260 MW
Planned Nameplate Dischargeable Energy	1040 MWh
Maximum Charge Capacity	260 MW
Maximum Discharge Capacity	260 MW
Ramp Rate	[redacted] of Planned Nameplate Capacity or as required by Interconnection Agreement
Operational SOC Limits	[redacted]
Maximum Annual Average SOC	[redacted]
Operational Temperature Limits	[redacted]
Maximum Cycles per Year	[redacted] Equivalent Full Cycles
Maximum Cycles per Day	[redacted] Equivalent Full Cycles

EXHIBIT C

FORM OF LETTER OF CREDIT

IRREVOCABLE STANDBY LETTER OF CREDIT

Issuing Bank: _____

Date and Place of Issue: _____, 20__
New York, NY

Letter of Credit No.: _____

Stated Amount: US $ _____ (AMOUNT IN WORDS United States Dollars)

Expiration Date: _____, 20__

Beneficiary's Name and Address: NAME and ADDRESS
("Beneficiary")

Applicant's Name and Address: Clearway Energy Group LLC on behalf of SUB
100 California Street, Suite 400
San Francisco, CA 94111
("Applicant")

To Beneficiary:

We hereby issue this irrevocable standby letter of credit no._____ ("Letter of Credit") in your favor for the account of the Applicant for payment at sight up to the aggregate amount stated above ("Stated Amount"). Drawing(s) made under and in accordance with the terms and conditions of this Letter of Credit will be duly honored. This Letter of Credit is effective as of DATE.

Funds under this Letter of Credit, in an amount not to exceed the Stated Amount, will be made available to you upon your presentation of a statement ("Beneficiary Statement") purportedly signed by an authorized officer of Beneficiary stating:

1. "Pursuant to [insert either (i) LAW/REGULATION SPECIFICS or (ii) the NAME OF CONTRACT(S) between SUB and Beneficiary], SUB's payment to Beneficiary of $[_____] is due and owing. Wherefore, Beneficiary hereby demands payment of the above referenced amount under Letter of Credit no. ____."

Or

2. "This Letter of Credit No. _____ will expire in less than thirty (30) days, Beneficiary has not received an extension of said Letter of Credit or other acceptable replacement collateral, and SUB's ("SUB") failure to provide this Letter of Credit and/or acceptable collateral would be [insert either (i) a violation of LAW/REGULATION SPECIFICS or (ii) an Event of Default under NAME OF CONTRACT(S) between SUB and Beneficiary]. Wherefore, Beneficiary hereby demands payment of $[_____], to be held as collateral until Beneficiary is provided with a new letter of credit or other acceptable collateral."

Special Conditions

1. Payment under this Letter of Credit will be effected per your instructions against a Beneficiary Statement presented at ("Place of Presentation"). Such presentation may be made (i) in person, (ii) by first class certified and registered U.S. mail, or (iii) by overnight mail.

2. Partial and/or Multiple drawings are permitted. Such partial drawings shall reduce the amount thereafter available for drawing under this Letter of Credit.

3. [OPTIONAL]This Letter of Credit shall be deemed automatically extended without amendment for an additional period of twelve (12) months from the then-current Expiration Date, unless Issuing Bank notifies Beneficiary at least sixty (60) days prior to such Expiration Date that Issuing Bank elects not to extend the Letter of Credit for an additional period.

4. This Letter of Credit will terminate at 5:00 PM New York time on the earlier of (i) the Expiration Date, (ii) the date of surrender by you of this Letter of Credit for cancellation, and (iii) the date of our honoring of drawing(s) under this Letter of Credit that, in the aggregate, equal the Stated Amount.

5. All Issuing Bank charges are for the account of Applicant.

6. This Letter of Credit shall not be amended except with the written concurrence of Beneficiary, Applicant, and Issuing Bank.

7. Any communications to us with respect to this Letter of Credit shall be addressed to the Place of Presentation and refer to "Letter of Credit No. _____."

8. Unless otherwise expressly stated herein, this Letter of Credit is governed by the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600 ("UCP"). As to matters not governed by the UCP, this Letter of Credit is governed by the laws of the State of New York.

9. The following Articles under UCP are modified as follows:

(i) Article 14(b) is modified such that the issuing bank shall have a maximum of three (3) banking days following the day of presentation to determine if a presentation is complying; and

(ii) Article 36 is amended such that if the Letter of Credit expires while the Place of Presentation is closed due to events described in said Article, then the Expiration Date of this Letter of Credit shall be automatically extended without amendment to a date thirty (30) calendar days after the Place of Presentation reopens for business.

Very truly yours,

[_____]

EXHIBIT D

FORM OF SURETY BOND

Bond Number:

SURETY BOND

KNOW ALL MEN BY THESE PRESENTS;

That we as Principal, and a corporation of the State of _____, as Surety, are held and firmly bound unto , as Obligee, in the full and just sum of and No/100 DOLLARS ( ), lawful money of the United States of America, to the payment of which sum, well and truly be made, the Principal and Surety bind themselves, and each of their heirs, administrators, executors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a _____ Agreement (the Agreement), dated _____, with the Obligee for construction of _____ as further defined in said Agreement, which Agreement is hereby referred to and made a part hereof.

NOW, THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that if the Principal shall perform construction activities as fully described in said agreement, for which a bond must be posted, and shall reimburse said Obligee all loss and damage which said Obligee may sustain by reason of failure or default on the part of said Principal, then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, HOWEVER, That this bond is executed by the Principal and Surety and accepted by the Obligee subject to the following express conditions:

1. Notwithstanding the fact that the term of the Agreement is from to , it is understood by all parties to the Agreement that this bond may be canceled by Surety by giving (120) one hundred twenty days notice by certified mail to the Obligee. It is understood and agreed that the Obligee may recover the full amount of the Bond (less any previous amounts paid to the Obligee under the Bond) if the Surety cancels or non-renews the Bond and, within thirty (30) days prior to the effective date of the cancellation or non-renewal, the Obligee has not received collateral acceptable to it to replace the Bond, in accordance with the Agreement. The Surety shall have the right to rescind its cancellation any time during this 30-day period.

2. In the event of a default by the Principal in the performance of the Agreement during the term of this bond, the Surety shall be liable only for payment of the loss to the Obligee due to its incurred cost to complete the Principal's obligation under the Agreement, reasonable attorney's fees and enforcement costs, which occurred during the effective period of the bond, up to the maximum penalty of this bond.

3. No claim, action, suit, or proceeding, except as hereinafter set forth, shall be had or maintained against the Surety on this instrument unless same be brought or instituted upon the Surety within one year from termination or expiration of the bond term.

4. No right of action shall accrue on this bond to or for the use of any person or corporation other than the Obligee named herein or the heirs, executors, administrators or successors of the Obligee.

5. No modification of the Agreement guaranteed by this bond shall be binding on the Surety or covered by this bond without the written consent of the Surety.

6. This bond shall not bind the Surety unless the bond is accepted by the Obligee. The acknowledgment and acceptance of such bond is demonstrated by signing where indicated below. If this obligation is not accepted by way of signature of the Obligee below, this bond shall be deemed null and void.

7. No later than ten (10) Business Days after Surety receives from Obligee a demand notice, substantially in the form attached hereto as Attachment A ("Demand Notice"), Surety shall pay to Obligee, by wire transfer of immediately available funds, the amount specified by Obligee in such demand notice.

Signed and sealed this day of , _____.

Principal

By:_____

By:_____

Surety

By:_____
Attorney-In-Fact

The above terms and conditions of this bond have been reviewed and accepted by _____, the Obligee.

Acknowledged and Accepted:
By: _____
Printed Name: _____
Title: _____
Date: _____

ATTACHMENT A TO SURETY BOND NO. [_____]
FORM OF DEMAND NOTICE

[Obligee's Name]
[Obligee's Address]
[Date]

[Surety's name
Surety's address]

Re: Demand Notice under Surety Bond, No. [____], dated and effective as of [Effective Date of Bond] ("Bond"), entered into by [ ] ("Surety") and [_____] ("Principal") and issued by Surety on behalf of Principal in favor of [ ] ("Obligee").

Ladies and Gentlemen:

This letter constitutes Obligee's Demand Notice to Surety in accordance with the Bond. All capitalized terms used and not otherwise defined in this Demand Notice have the meanings assigned to them in the Bond.

[Insert one or both of the following two paragraphs, as applicable:

The undersigned hereby certifies to Surety that ($[dollar amount]) is due and owing from Principal to Obligee under the terms of the [name of contract between Obligee and Principal]. Obligee hereby demands payment from Surety in the amount of $[dollar amount].

- or -
The undersigned hereby certifies to Surety that, as of the close of business on [date less than thirty (30) days before the expiration of the Bond], Principal has failed to replace the Bond in satisfaction of the credit requirements established by the [name of contract between Obligee and Principal]. Obligee hereby demands payment from Surety in the amount of $[dollar amount].]

Please pay this amount in accordance with the following payment instructions no later than ten (10) Business Days after your receipt of this Demand Notice.

[Obligee's wire transfer instructions]

Sincerely,

[Obligee]

By: _____
Name: [Authorized representative's name]
Title: [Authorized representative's title]

EXHIBIT E

COMMERCIAL OPERATION CERTIFICATE

This Commercial Operation Certificate ("**Certificate**") is delivered by Royal Slope BESS, LLC ("**Seller**") to Public Utility District No. 2 of Grant County ("**Customer**") in accordance with the terms of that certain Energy Storage Services Agreement dated as of [___] by and between Customer and Seller (the "**Agreement**"). All capitalized terms not otherwise defined herein shall have the meaning given to them in the Agreement.

Seller hereby certifies that:

1. The Installed Capacity of the Project is **[___]** MW_{AC}.

2. Except for punch list items that would not materially affect the performance, reliability, or safe operation of the Project, the same has been erected and installed by the respective suppliers in accordance with the material applicable specifications under the respective supply agreements, and is ready for receipt of Charging Energy, continuous storage of Energy and delivery of Discharged Energy from and to the Delivery Point in compliance with all Applicable Laws and Governmental Approvals.

3. Except for punch list items that would not materially affect the performance, reliability, or safe operation of the Project, as required under the Agreement, all requirements necessary to achieve commercial operability thereof have been substantially completed.

4. Seller has obtained all Governmental Approvals necessary for the Project to continuously store and receive at and deliver Energy to the Delivery Point and the same is in compliance with all such Governmental Approvals and all other Applicable Laws in all material respects.

5. All necessary arrangements for the prudent and proper operation and maintenance of the Project have been put in place and are in full force and effect.

6. Seller has provided testing documentation (i) demonstrating the net ability of the Project to deliver Discharged Energy in an amount equal to or greater than the guaranteed Maximum Discharge Capacity and Planned Nameplate Dischargeable Energy respectively (as such amounts are defined in Exhibit B to the Agreement); and (ii) providing the inputs for and calculation of the Tested RTE for purposes of the RTE Guarantee.

7. Seller has a valid leasehold or real property interest in the Site for a term of at least twenty (20) years from the Commercial Operation Date.

Executed this [__] day of [_____], 202[__]

ROYAL SLOPE BESS, LLC
a Delaware limited liability company
By:

Name:
Title:

EXHIBIT F

MILESTONE SCHEDULE

MILESTONE	DATE
Required Permits Deadline:	[redacted] (as such date may be extended pursuant to the terms of this Agreement)
Guaranteed Commercial Operation Date:	[redacted] (as such date may be extended pursuant to the terms of this Agreement)
Outside Commercial Operation Date:	[redacted] (as such date may be extended pursuant to the terms of this Agreement)

EXHIBIT G

PERFORMANCE TESTING & PERFORMANCE GUARANTEES

[redacted]

2. [redacted]

3. [redacted]

4 [redacted]

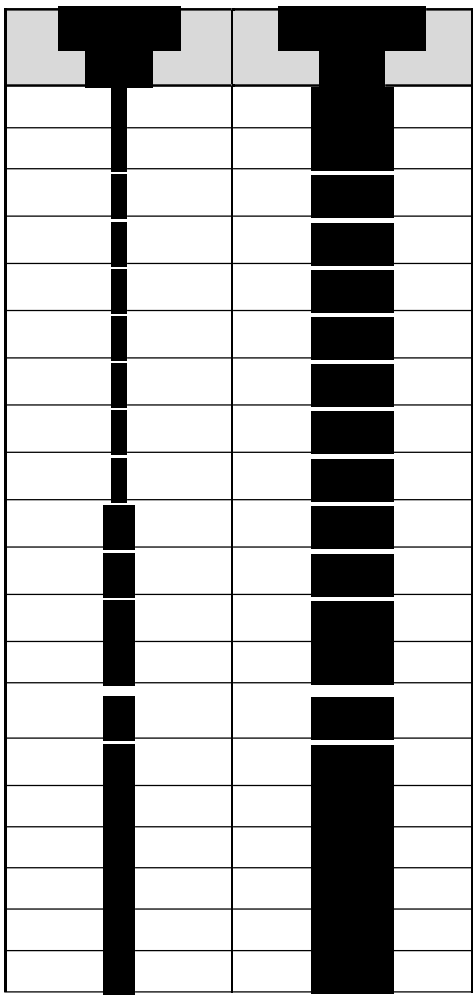
[redacted]

5. [redacted]

(c) [redacted]

6. [redacted]

(a) [redacted]



(c) [redacted]

7. [redacted].

7.1. [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

EXHIBIT H

REQUIRED PERMITS; OTHER GOVERNMENTAL APPROVALS

I. Required Permits (subject to Section 4.2):

II. Ministerial Permits:

Routine, non-discretionary approvals that are granted upon demonstration of compliance with technical or administrative standards. Examples include:

- Building permits
- Electrical permits
- Road approach/access permits
- Dust control permits
- Fire safety plan review

III. All Other Governmental Approvals

Water rights or transfers

For Commission Review – 10/14/2025

Motion authorizing the General Manager/CEO to execute Change Order No. 4 to Contract 430-11632 with Arch Staffing and Consulting increasing the not-to-exceed contract amount by $425,000.00 for a new contract total of $5,870,000.00 and resetting the delegated authority levels to the authority granted to the General Manager/CEO per Resolution No. 8609 for charges incurred as a result of Change Order No. 4.

xxxx

M E M O R A N D U M **Date September 26, 2025**

TO: John Mertlich, General Manager/Chief Executive Officer

FROM: Charles Meyer, VP Technology, CTO

SUBJECT: Change Order for Contract 430-11632

Purpose:

To request Commission approval to increase the awarded contract price with Arch Staffing & Consulting, Contract No. 430-11632. Arch Staffing provides staff augmentation services for ET, PMO and other Grant PUD business units.

Discussion:

Arch provides Grant PUD with contracted labor resources whose skills and capacity are needed to execute technology projects and run business activities that directly support Grant PUD's business objectives and the strategic plan. This contract is an on-demand agreement utilizing statement of work task authorizations for each resource procured. Grant PUD cannot successfully execute its strategic plans and related project work without staff augmentation and specialized services.

This agreement is specific to the technology work performed at Grant PUD and managed separately from Arch Staffing's agreement with the Project Management Office.

The initial technology staffing support agreement for $1,500,000 was signed on October 25, 2022. Change Order #1 for $450,000 was signed on November 8, 2023. Change Order #2 for $3,000,000 was signed on January 24, 2024. Change Order #3 for $495,000 was signed on June 2, 2025. As of September 25, 2025, there is $76,951.27 left in the contract. There are four outstanding invoices for August through September 21, 2025 totaling approximately $341,572.62. We are expecting to receive an additional invoice for billing through September 28, 2025. That amount is not yet known. The allocation of funds and price spent to date are outlined in the table below.

TA #	Functional Area	Resource Name	TA Status	Not to Exceed	Invoiced through 7/27/2025
1.3	IT - Software Engineer	Mark Hartley	Open	$816,000.00	$770,613.83
2.3	IT - Sr Business Analyst/QA Tester	Carey McGuire	Open	$1,281,680.00	$935,287.32

TA #	Functional Area	Resource Name	TA Status	Not to Exceed	Invoiced through 7/27/2025
3.2	IT - SharePoint and Power Platform	Paul Weisenberger	Closed	$259,648.50	$259,648.50
4.2	IT – Senior Software Engineer	Mick Conway	Closed	$33,000.00	$33,000.00
5.1	IT – Data Engineer	Jason Veytsman	Closed	$31,680.00	$31,680.00
6.2	MSGP Support	Sumit Ghai	Closed	$368,055.88	$368,055.88
7.2	MSGP Support	Kevin Hutchins	Closed	$466,814.24	$466,814.24
8	IT – Telecommunications Engineer (Direct hire fee)	Joel Currey	Closed	$26,000.00	$26,000.00
9.3	IT – Business Systems Analyst	Gail Fitzmaurice	Closed	$485,097.28	$485,097.28
10.1	IT – Tech Writer/Content Developer	Stephen Beecroft	Closed	$129,618.00	$129,618.00
11.1	IT – Business Systems Analyst	Sara Hosseinizad	Open	$782,000.00	$597,425.88
12.1	IT Tech Writer/Content Developer	Hai Vo	Closed	$186,248.00	$186,248.00
13.1	IT – Business Systems Analyst	James Berkman	Closed	$29,832.00	$29,832.00
14.2	IT – Tech Writer/Content Developer	Leo Cruz Marquez	Closed	$260,404.00	$260,404.00
15.2	IT – SharePoint and Power Platform	Paul Weisenberger	Open	$629,504.00	$277,006.99
16.3	OT – Energy Accounting Program Support & Training	Jonathan Hyry	Closed	$71,017.79	$71,017.79
17	IT – Release Manager	Joshua Davis	Open	$291,200.00	$196,140.00
18	IT – Senior Software Engineer	Mick Conway	Open	$54,000.00	$625.00
19	IT – Business System Analyst	Mary Bushey	Open	$249,600.00	$99,840.00
20	IT – Business System Analyst	Laurie Rau	Open	$235,040.00	$90,795.50
21	IT – Cloud Solutions Architect	David Vanderslice	Open	$206,960.00	$50,048.50
			Totals	**$6,893,399.69**	**$5,365,198.71**

Justification:

Each project and/or activity that will require staff augmentation to reduce risk and create a successful outcome will be independently justified and funded, either through capital or O&M budgets. Scaling our resources up and down quickly and efficiently via on demand staff augmentation is an effective long-term strategy for resourcing projects. Staff augmentation and resources required to execute projects will typically be included and justified in the budget and value statement for the project itself. This contract is merely a mechanism for acquiring those resources as efficiently as possible.

If not approved, project and other ongoing work will be unable to be executed in the desired time frame, with high quality results. We have reached the limits of the existing contract and will be unable to staff additional short-term need without this increase.

Financial Considerations:

Grant PUD has ability to negotiate rates and accept or reject potential staff augmentation resources presented by Arch. Having this contract in place significantly lowers the administrative work required to onboard resources by maintaining a relationship with a proven partner and issuing task/work authorizations. Quickly scaling resources up and down per project demand and priority is more efficient than adding full time resources which have a long-term impact to District finances.

Grant PUD also has other staff augmentation contracts in place for technology resources and can leverage those current and past agreements for competitive purposes.

Contract Specifics:

This agreement is intended to be ongoing through September 28, 2025.

Recommendation:

Commission approval of Change Order No. 4 to Contract No. 430-11632 to increase the total contract price by $425,000.00 from $5,445,000.00 to $5,870,000.00.

Legal Review:

See attached e-mail(s).

CHANGE ORDER
NO. 4

Pursuant to Section 5, the following changes are hereby incorporated into this Contract:

A. Description of Change: Increase the Contract Price.

B. Time of Completion: The completion date shall remain November 15, 2025.

C. Contract Price Adjustment: As a result of this Change Order, the not to exceed Contract Price shall be increased by the sum of $425,000.00 plus applicable sales tax. This Change Order shall not provide any basis for any other payments to or claims by the Contractor as a result of or arising out of the performance of the work described herein. The new total revised maximum Contract Price is $5,870,000.00, including changes incorporated by this Change Order.

D. Except as specifically provided herein, all other Contract terms and conditions shall remain unchanged.

Public Utility District No. 2 of Grant County, Washington	Arch Staffing and Consulting
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Grant County PUBLIC UTILITY DISTRICT
Excellence in Service and Leadership

Change Order Table

Contract Title: Arch Staffing and Consulting for Enterprise Technology 2022 - 2025

Contract No.	430-11632	Award Date:	10/25/2022
Project Manager:	Charles Meyer	Original Contract Amount:	$1,500,000.00
District Representative (If Different):		Original Contract completion:	11/15/2025
Contractor:	Arch Staffing and Consulting		

CO#	Change Description	Approved by	Executed Date	Revised Completion Date	Cost Change Amount	Revised Contract Amount	Authority Level Tracking
1	Increase Contract Price	Managing Director	11/08/23	N/A	$450,000.00	$1,950,000.00	$450,000.00
2	Increase Contract Price	Comm	01/23/24	N/A	$3,000,000.00	$4,950,000.00	$3,450,000.00
3	Increase Contract Price	Executive Mgmt	06/02/25	N/A	$495,000.00	$5,445,000.00	$495,000.00
4	Increase Contract Price	Comm		N/A	$425,000.00	$5,870,000.00	$920,000.00
Total Change Order Cost Change Amount					4,370,000.00		

For Commission Review 10/15/2025

Motion authorizing the General Manager/CEO, on behalf of Grant PUD, to award Engineering Contract 430-12500 to X-Energy, LLC.

xxxx

M E M O R A N D U M September 24, 2025

TO: John Mertlich, General Manager/Chief Executive Officer

VIA: Jeff Grizzel, Senior VP of Power and Market Operations DS JG 10/1/2025
Rich Flanigan, VP of Energy Supply and Markets DS RF 10/1/2025
Andrew Munro, Senior Manager – ESM Industry & Market Research Initial AM 9/29/2025

FROM: Kevin Marshall, Project Specialist X Initial KM 9/29/2025
David Dempsey, Engineer V
Bryce Greenfield, Engineer V

SUBJECT: Award of Contract 430-22500 for Engineering Services

Purpose: To request Commission approval to award Engineering Contract 430-12500 to X-Energy, LLC.

Background:
To ensure adequate long-term energy and capacity, staff have been evaluating the feasibility of constructing and operating a set of Small Modular Reactors (SMRs) to meet the growing demand for baseload energy and capacity. These efforts are critical to meeting the growing energy demand in Grant County and ensuring long-term energy reliability for our customers. SMRs have the potential to meet these needs, but significant evaluation is required to determine the viability, particularly from the financial perspective.

Discussion:
SMRs have been identified by numerous organizations as emerging technologies to help provide the energy and capacity of the future for the electricity needs of the nation. Currently three SMR technologies are under initial construction in the US and Canada. X-Energy, TerraPower, and GE-Hitachi have civil construction being performed in Texas, Wyoming, and Darlington, Ontario respectively. NuScale has also signed an agreement with TVA to construct (although we would expect there are several offramps prior to TVA making a final investment decision. The X-Energy, TerraPower, and GE-H projects are expected to go online in the 2030 timeframe.

District staff have been evaluating SMRs for several years now. In 2022 our evaluation in conjunction with Energy NW (EN) selected X-Energy's XE-100 as the preferred technology. Grant PUD along with EN were originally involved in a partnership with X-Energy to pursue construction of their first project as part of USDOE's Advanced Reactor Demonstration Project (ARDP) with USDOE providing approximately $1.2 billion to offset the cost of this first of a kind (FOAK) project. Subsequently the District pulled back from the project based on the risks of a FOAK project. Since then, Dow Chemical signed up for the ARDP project which is currently under construction for the non-nuclear portion of the plant. They expect to obtain their nuclear

construction permit from the NRC in Q1 of 2026 and then proceed to perform the nuclear construction.

Currently staff believe that the X-Energy and TerraPower SMRs are the safest/best (Gen 4) technology. The GE-Hitachi technology is a Gen 3+ which is considerably safer than the nuclear plants currently operating in the U.S. but not considered to be as safe as the Gen 4 plant. The X-Energy and TerraPower SMRs use Haleu fuel which has both advantages and disadvantages over the fuel used (basically the same fuel used in the existing US operating plants) in the GE-Hitachi and the NuScale SMRs.

While the Gen 4 technology is considered safer, the Gen 3+ plants have been licensed by the Nuclear Regulatory Commission (NRC), and the NRC and the Canadian equivalent consider them to meet the regulatory standards and there should be no licensing issues around nuclear safety.

The final recommendation on what technology to build and operate, if any, is most likely to come down to economics. Unfortunately, no SMR technology has completed construction or operated in the U.S. There are numerous factors in an economic evaluation such as:

- Construction costs (overnight costs)
- Construction timeline (financing during construction)
- Operating staff requirements
- Fuel costs
- Size of the Emergency Planning Zone (Inside the site perimeter is ideal)
- Refueling outages (the X-Energy SMR refuels while online)
- Spent fuel management requirements (do you need to maintain a pool)
- Ancillary services that the technology can provide (energy storage, load following, etc.)
- Nth of a kind capital costs
- And many other factors

Given the current maturity of the SMR technologies, it is extremely difficult to select a technology as the best technology for the District to pursue. However, a nuclear project takes about a decade to complete and if the District waits to evaluate the technologies until a later date, then it will continue to push out any potential on-line date.

Staff believe that pursuing conceptual designs of at least two and maybe three of these technologies is wise so that the District is ready to pursue a project when and if it is shown to be economically feasible. This obviously comes with the risk of writing off the costs of conceptual studies if the technologies are never economically feasible in the NW. The cost of a conceptual study is significant (approximately $1 mm each) but taken in the context that a nuclear SMR project is going to be in the $2.5 to $4 billion range, it is a small fraction of an overall project.

The conceptual study that X-Energy has proposed includes the following elements:

Task	Scope

1	CON-0.01 Kickoff, Data Collection and Site Visit • This task consists of initiating the feasibility study and collecting, reviewing and analyzing data gathered during the site visit.
2	CON-0.02 Site Feasibility Study • X-energy will conduct an initial evaluation of one (1) site for a nuclear power station, in accordance with RG 4.7, applicable regulations and related NRC guidance for Advanced Reactors (ARs) and SMRs.
3	CON-0.03 Site Layout & Configuration • X-energy will work with Grant PUD to establish the basic site requirements organized in the Basis of Design Document.
4	CON-0.04 Plant Simulator Modelling • X-energy will develop a simulated plant computer model which can be observed at the X-energy Frederick facility.
5	CON-0.05 Engineering Technical Assessment • X-energy will develop a conceptual site plot plan document, identify key regulatory risks, and determine supporting infrastructure requirements.
6	CON-0.06 Cost Estimation • X-energy proposes to deliver a Class 5 Cost Estimate for four (4) Xe-100 units.
7	CON-0.007 Regulatory Engagement and Communication Strategy • X-energy will initiate a Regulatory Engagement Plan (REP) to guide Grant PUD (basis for initiating a project with the NRC).
8	CON-0.08 Risk Identification and Management • X-energy will initiate a risk assessment report for Grant PUD.
9	CON-0.09 Project Management and Controls • X-energy will create a Level 1 project schedule.

Justification:

- This approach is consistent with the practices of other utilities in assessing and implementing new nuclear generation projects.
- This approach allows for numerous decision points prior to making a final investment decision on constructing an SMR.
- This approach allows the District to remain in the queue for a potential nth of a kind SMR project, if the economics prove out.
- With carbon producing power generation potentially phased out in WA in 2045, this provides an option for a non-carbon generation source to meet the District's needs. Wind, solar and batteries are probably not going to be enough, and no additional hydro will be added.
- This contract is being pursued as a sole source procurement. While technically the contract provides engineering services, which are normally required to be procured via an RFP, it requires access to proprietary information that only X-Energy has access to. Issuing an RFP

for these services would result in only X-Energy being qualified to provide the services, thereby wasting time and effort issuing the RFP. X-Energy's hourly rates are in line with the other consulting contracts that the District has awarded for engineering services.

Financial Considerations:

- This contract will help the District determine the feasibility of constructing and operating an SMR to meet the energy and capacity needs for the District in the long term.
- This is a cost-plus fixed fee contract.
- This contract will be awarded for a 12 to 18-month period.
- The rates in these contracts are aligned with previous contracts, accounting for inflation.
- This work will be funded by Climate Commitment Act (CCA) funds.
- Cost Center: KA5000, Budget Years: 2025-2026.
- Total cost to the District: $1,200,000

Contract Specifics:

- Expected contract completion date: 12/31/2026.

Recommendation:

Staff recommends the Commission approve the awarding of Engineering Contract 430-12500 to X-Energy in the amount of $1,200,000.

Legal Review: See attached e-mail(s).

cc: Patrick Bishop
Kristin Fleisher
Lori Englehart-Jewell
Beau Schwab
Leah Mauceri

PROFESSIONAL SERVICES AGREEMENT

BY AND BETWEEN

PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY, WASHINGTON

AND

X ENERGY, LLC

TABLE OF CONTENTS

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement"), effective upon the date of the last signature below ("Effective Date"), is by and between X ENERGY, LLC, a Maryland limited liability company (hereinafter called "X-ENERGY"), with principal place of business at 530 Gaither Road, Ste 700, Rockville, MD 20850 and Public Utility District No. 2 of Grant County, Washington, a municipal corporation in the State of Washington, with principal place of business at 30 C Street SW, Ephrata, WA 98823 (hereinafter called the "OWNER" or "District").

WHEREAS, OWNER desires to obtain a feasibility study for the deployment of four X-ENERGY Xe-100 advanced small modular reactor technology in Grant County, Washington; and

WHEREAS, X-ENERGY desires to and is able to provide such services, under the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein and of other good and valuable consideration, the parties hereto agree as follows:

1. SCOPE OF SUPPLY

1.1 By X-ENERGY

X-ENERGY shall perform the scope of work described in their Proposal No. XEP2025-010-GCPUD CON-0 REV 1, dated September 16, 2025, which is incorporated herein as Appendix A. All X-ENERGY Scope of Supply is hereinafter called "Work".

1.2 By OWNER

1.2.1 Except to the extent otherwise expressly agreed, OWNER shall supply all documentation, drawings and data related to the Work which are reasonably available to OWNER and shall otherwise provide reasonable assistance to X-ENERGY to enable X-ENERGY to perform its obligations.

1.2.2 OWNER shall furnish such other personnel, facilities, or services as may be required and are not to be provided by X-ENERGY.

2. TERMS OF PAYMENT

2.1 Compensation for services rendered and all reimbursable costs shall be per the rates set forth in Appendix B, Rate Schedule, which rates and costs shall not be subject to change until two years after the effective date of this Agreement. Any changes to rates and costs shall only be on a prospective basis and shall occur no more frequently than once every 12 months thereafter. Revised billable rates will be incorporated into the Agreement via a Change Order signed by both Parties. To the extent the need for new rates is identified, X-ENERGY will work with OWNER to amend the existing Rate Schedule.

In no event, however, shall the total amount paid to X-ENERGY for services and all reimbursable costs exceed the sum of $1,200,000.00 USD unless a Change Order authorizing the same is issued in accordance with Article 3 below.

2.2 X-ENERGY shall submit monthly invoices to the attention of:

Public Utility District No. 2 of Grant County, Washington
Attn: Accounts Payable
PO Box 878

Ephrata, WA 98823
Or AccountsPayable@gcpud.org

2.3 Invoices shall include the contract number (430-12500) and a detailed description of the Work performed during the billing period. Any Labor Categories or reimbursable expenses shall be included on the invoice (see Appendix B).

2.4 Payment will be made by OWNER upon completion of Work following OWNER approval of X-ENERGY's invoices. Invoice shall be subject to the review and approval of OWNER. Invoice shall be in a detailed and clear manner supported by such information OWNER may require. OWNER will make payment to X-ENERGY within 30 days after submission of a compliant invoice. X-ENERGY understands and agrees that by executing this Agreement with OWNER, OWNER shall make payment(s) by automated clearing house (ACH).

2.5 The District Representative may approve additional X-ENERGY employees or personnel categories to be added to the Rate Schedule, if applicable, provided that any additional employees have at least equivalent training and skills and are compensated at the same or lower rates than those listed on the current approved Rate Schedule for similar work. There shall be no change in the total Agreement not to exceed amount. All additions must be approved in writing prior to performing services under the Agreement.

3. CHANGE ORDERS

Except as provided herein, no official, employee, agent, or representative of OWNER is authorized to approve any change in this Agreement and it shall be the responsibility of X-ENERGY before proceeding with any change, to satisfy itself that the execution of the written Change Order has been properly authorized on behalf of OWNER. OWNER's management has limited authority to approve Change Orders. The current level and limitations of such authority are set forth in OWNER Resolution(s) which may be amended from time to time. Such Resolution(s) will be provided to X-ENERGY prior to Change Order execution. Otherwise, only OWNER's Board of Commissioners may approve changes to this Agreement.

When a change is ordered by OWNER, as provided herein, a Change Order shall be executed by OWNER and X-ENERGY before any Change Order work is performed. When requested, X-ENERGY shall provide a detailed proposal for evaluation by OWNER, including details on proposed cost. OWNER shall not be liable for any payment to X-ENERGY, or claims arising there from, for Change Order work which is not first authorized in writing. All terms and conditions contained in this Agreement shall be applicable to Change Order work. Change Orders shall be issued on the form attached as Appendix C and shall specify any change in time required for completion of the work caused by the Change Order and, to the extent applicable, the amount of any increase or decrease in the total not to exceed Agreement amount.

4. SUBCONTRACTS/PURCHASES

4.1 X-ENERGY is authorized to enter into subcontracts for professional services and to make purchases of material or equipment required for the Work. Any subcontracts for professional services not included in Appendix B, Rate Schedule, and any of purchases of material or equipment shall be approved in advance by the District Representative and Procurement Officer.

4.2 Before entering into any subcontracts and throughout the duration of the Agreement, the District Representative and Procurement Officer may request copies of the subcontractor agreements from the Contractor. Subcontracted work approved in accordance with this Article 4 shall be invoiced at cost. A copy of the invoice showing actual cost must be submitted with X-ENERGY's invoice to OWNER.

4.3 Whenever the cost for any single item of material is estimated to exceed $30,000.00, X-ENERGY shall

obtain three quotes and submit them to the District Representative and the Procurement Officer for approval. Purchases of like items must be less than $120,000.00. Material or equipment approved in accordance with this Article 4 shall be invoiced at cost. A copy of the invoice showing actual cost must be submitted with X-ENERGY's invoice to OWNER.

5. TAXES

The prices for the Work include Federal, State, and local taxes levied on wages and/or salaries paid to X-ENERGY's employees and all taxes based upon net income of X-ENERGY's business. However, the prices for Work are exclusive of any present or future Federal, State, Municipal, or other sales or use tax, or any other present or future excise tax upon or measured by the gross receipts for any transaction hereunder or any allocated portion thereof or by the gross value of the Work, and of any present or future property tax or similar charge with respect to the Work. If X-ENERGY is required by applicable law or regulation to pay or collect any such tax or taxes on account of the Work, then such amount of tax and any penalties and interest thereon shall be reimbursed to X-ENERGY or paid by OWNER.

6. PERMITS AND REGULATORY REQUIREMENTS

6.1 X-ENERGY shall be responsible for obtaining any license or permit required of X-ENERGY in its name to enable it to perform the Work.

6.2 Where laws, ordinances and regulations promulgated by Federal, State, Municipal or other regulatory authorities, require permits to install or operate any Equipment covered by this Agreement or the approval of the plans and specifications for the installation, the OWNER shall be responsible for securing the permits and the approval of said plans or specifications from the proper authorities and for any required fees. If any changes are required in the Equipment to meet the requirements of any such regulatory bodies, the OWNER shall inform X-ENERGY of the changes needed and if the changes can be practicably accomplished, X-ENERGY will make such changes. However, the price, schedule, and other affected provisions of the Agreement shall be subject to appropriate adjustment.

7. TITLE AND RISK OF LOSS OR DAMAGE

All risk of loss or damage and title to material or Equipment furnished under any Purchase Order shall pass to OWNER upon delivery thereof F.O.B. common carrier, at point of delivery. X-ENERGY shall not have care, custody and control of any equipment or materials of OWNER except as expressly agreed in writing.

8. TERM OF PERFORMANCE

This Agreement shall remain in full force and effect for two years from the Effective Date unless terminated earlier in accordance with Article 9.

9. TERMINATION

9.1 Either party may terminate this Agreement upon thirty (30) days advance written notice to the other party. Work started but not completed upon termination of the Agreement will be terminated. In case of termination pursuant to this Section 9.1, OWNER will make payment at the rates specified in this Agreement for services performed and work in progress up to the date of termination. However, in no event shall X-ENERGY be entitled to any anticipated fee or profit on unperformed work.

9.2 In the event of X-ENERGY's breach or abandonment of this Agreement, OWNER may thereupon and without further notice, terminate this Agreement. OWNER, without waiving any other remedies available to it, may retain any monies otherwise due to X-ENERGY under this Agreement to the extent such sums are required to compensate OWNER, in whole or in part, for any loss or damage caused by

X-ENERGY's breach or abandonment.

10. WARRANTY

X-ENERGY warrants that the services to be provided under this Agreement will be performed by qualified personnel in a workmanlike manner consistent with generally accepted standards and practices. X-ENERGY shall re-perform at X-ENERGY's expense, any service that fails to meet this warranty within ninety (90) days after performance of such service, provided that written notice of any claimed defect is given to X-ENERGY within thirty (30) calendar days from the date the nonconformance is detected by OWNER. If re-performance is impractical or impossible, then X-ENERGY shall refund the price paid for the nonconforming services.

THE WARRANTIES AND REMEDIES SET FORTH IN THIS ARTICLE ARE EXCLUSIVE AND NO OTHER WARRANTY OR REMEDY OF ANY KIND, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS, OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES ARISING FROM COURSE OF DEALINGS OR USAGE OF TRADE, SHALL APPLY.

X-ENERGY ASSUMES NO LIABILITY WITH RESPECT TO THE USE OF, OR FOR DAMAGES RESULTING FROM THE USE OF, ANY INFORMATION, METHOD OR PROCESS DISCLOSED UNDER THIS AGREEMENT.

11. HOLD HARMLESS AND INDEMNIFICATION

Each Party (the "Indemnitor") shall, at its sole expense, indemnify, defend, save, and hold harmless the other Party (the "Indemnitee"), its officers, agents, and employees from all actual or potential claims or losses, including costs and legal fees at trial and on appeal, and damages or claims for damages to property or physical personal injury, including death, suffered by anyone whomsoever, including OWNER, to the extent caused by any negligent act of or omission of Indemnitor or its subcontractors, excluding damages caused by the negligence of Indemnitee, in the administration or performance of this Agreement or any subcontracts, and for which either of the Parties, their officers, agents, or employees may or shall be liable. Each Party waives its immunity under industrial insurance, Title 51 RCW, to the extent necessary to effectuate this indemnification/hold harmless agreement. In the event of damages to a person or property caused by or resulting from the concurrent negligence of OWNER or its agents or employees and X-ENERGY or its agents or employees, each Party's indemnity obligation shall apply only to the extent of such Party's (including that of its agents and employees) negligence.

Each Party acknowledges that by entering into this Agreement with OWNER, it has mutually negotiated the above indemnity provision. Each Party's indemnity and defense obligations shall survive the termination or completion of the Agreement and shall remain in full force and effect until satisfied in full.

12. INSURANCE

12.1 Prior to the commencement of any work under this Agreement, and at all times during the term of this Agreement, X-ENERGY shall obtain and maintain continuously, at its own expense, a policy or policies of insurance with insurance companies rated A- VII or better by A. M. Best or A by S&P, as enumerated below. Any deductible, self-insured retention or coverage via captive $25K or above must be disclosed and is subject to approval by OWNER's Risk Manager. The cost of any claim payments falling within the deductible or self-insured retention shall be the responsibility of X-ENERGY and not recoverable under any part of this Agreement. If requested by OWNER, X-ENERGY shall provide their financial statements for the most recent three years.

X-ENERGY Required Insurance:

12.1.1 General Liability Insurance: Commercial general liability insurance, covering all operations by or on behalf of X-ENERGY against claims for bodily injury (including death) and property damage (including loss of use). Such insurance shall provide coverage for:

a. Premises and Operations;
b. Products and Completed Operations;
c. Contractual Liability;
d. Personal Injury Liability (with deletion of the exclusion for liability assumed under Contract);

with the following minimum limits:

e. $1,000,000 Each Occurrence
f. $1,000,000 Personal Injury Liability
g. $2,000,000 General Aggregate (per project)
h. $2,000,000 Products and Completed Operations Aggregate

Commercial general liability insurance will include OWNER as additional insured on a primary and non-contributory basis. A waiver of subrogation will apply in favor of OWNER.

12.1.2 Workers' Compensation and Stop Gap Employers Liability: When applicable, Workers' Compensation Insurance as required by law for all employees. Employer's Liability Insurance, including Occupational Disease coverage, in the amount of $1,000,000 for Each Accident, Each Employee, and Policy Limit. Employer's Liability may be procured as an endorsement to the commercial general liability via the Stop Gap Coverage endorsement. X-ENERGY expressly agrees to comply with all provisions of the Workers' Compensation Laws of the states or countries where the work is being performed, including the provisions of Title 51 of the Revised Code of Washington for all work occurring in the State of Washington.

If there is an exposure of injury or illness under the U.S. Longshore and Harbor Workers (USL&H) Act, Jones Act, or under U.S. laws, regulations or statutes applicable to maritime employees, coverage shall be included for such injuries or claims. Such coverage shall include USL&H and/or Maritime Employer's Liability (MEL).

12.1.3 Automobile Liability Insurance: Automobile Liability insurance against claims of bodily injury (including death) and property damage (including loss of use) covering all owned (if any), rented, leased, non-owned, and hired vehicles used in the performance of the work, with a minimum limit of $1,000,000 per accident for bodily injury, property damage, or death combined and containing appropriate uninsured motorist and No-Fault insurance provision, where applicable.

Automobile liability insurance will include OWNER as additional insured. A waiver of subrogation will apply in favor of OWNER.

12.1.4 Excess Insurance: Excess (or Umbrella) Liability insurance with a minimum limit of $4,000,000 per occurrence and in the aggregate. This insurance shall provide coverage in excess of the underlying primary liability limits, terms, and conditions for each category of liability insurance in the foregoing subsections 12.1.1, 12.1.2 (Employer's Liability only) and 12.1.3. If this insurance is written on a claims-made policy form, then the policy shall be endorsed to include an automatic extended reporting period of at least five years or the statute of repose.

Umbrella/Excess liability insurance will include OWNER as additional insured on a primary and non-contributory basis. A waiver of subrogation will apply in favor of OWNER.

12.1.5 Professional Liability: X-ENERGY shall provide professional liability insurance with a minimum limit of $2,000,000 per claim.

If such policy is written on a claims made form, the retroactive date shall be prior to or coincident with the Effective Date of this Agreement. Claims made form coverage shall be maintained by X-ENERGY for a minimum of five years following the termination of this Agreement, and X-ENERGY shall annually provide OWNER with proof of renewal. If renewal of the claims made form of coverage becomes unavailable, or economically prohibitive, X-ENERGY shall purchase an Extended Reporting Period Tail or execute another form of guarantee acceptable to OWNER to assure financial responsibility for liability for services performed.

If X-ENERGY shall hire subcontractor for all operations and risk involving professional services exposure, this requirement may be satisfied by subcontractor's policies. X-ENERGY shall impute the insurance requirements stated in this section to subcontractor by written contract or written agreement. Any exceptions must be mutually agreed in writing with OWNER.

12.2 Evidence of Insurance - Prior to performing any services, and within 10 days following award of this Agreement, then annually thereafter, X-ENERGY shall file with OWNER a Certificate of Insurance showing the Insuring Companies, policy numbers, effective dates, limits of liability and deductibles with copies of the endorsements or policy documents where policy terms required under Section 12.1 are met.

Failure of OWNER to demand such certificate or other evidence of compliance with these insurance requirements or failure of OWNER to identify a deficiency from the provided evidence shall not be construed as a waiver of X-ENERGY's obligation to maintain such insurance. Acceptance by OWNER of any certificate or other evidence of compliance does not constitute approval or agreement by OWNER that the insurance requirements have been met or that the policies shown in the certificates or other evidence are in compliance with the requirements.

OWNER shall have the right but not the obligation of prohibiting X-ENERGY or subcontractor from entering the project site until such certificates or other evidence of insurance has been provided in full compliance with these requirements. If X-ENERGY fails to maintain insurance as set forth above, OWNER may purchase such insurance at X-ENERGY's expense. X-ENERGY's failure to maintain the required insurance may result in termination of this Agreement at OWNER's option.

12.3 Subcontractors - X-ENERGY shall ensure that each subcontractor meets the applicable insurance requirements and specifications of this Agreement. All coverage for subcontractors shall be subject to all the requirements stated herein and applicable to their profession. X-ENERGY shall furnish OWNER with copies of certificates of insurance evidencing coverage for each subcontractor upon request.

12.4 Cancellation of Insurance - X-ENERGY shall not cause any insurance policy to be canceled or permit any policy to lapse. Insurance companies, to the extent commercially available, or X-ENERGY shall provide 30 days advance written notice to OWNER for cancellation or any material change in coverage or condition, except 10 days advance written notice for cancellation due to non-payment of premium. Should X-ENERGY receive any notice of cancellation or notice of nonrenewal from its insurer(s), X-ENERGY shall provide immediate notice to OWNER no later than two days following receipt of such notice from the insurer. Notice to OWNER shall be delivered in accordance with Article 13.

13. NOTICES

All notices, requests, consents, claims, demands, waivers, and other communications under this Agreement

(each, a "Notice", and with the correlative meaning "Notify") must be in writing and addressed to the other Party at its address set forth below. Unless otherwise agreed herein, all Notices must be delivered by email, personal delivery, nationally recognized overnight courier, or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt by the receiving Party; and (b) if the Party giving the Notice has complied with the requirements of this Article 13.

Notice to OWNER:

Kevin Marshall
Public Utility District No. 2
of Grant County, Washington
PO Box 878
Ephrata, WA 98823
Phone: 509-760-9046
Email: kmarsha@gcpud.org
With a copy to Legal@gcpud.org

Notice to X-ENERGY:

Jennifer Doan, Manager, Contracts
X Energy, LLC
530 Gaither Road, Suite 800
Rockville, MD 20850
Phone: 301-637-0868
Email: jdoan@x-energy.com

For purposes of technical communications and work coordination only, OWNER designates Kevin Marshall as its representative ("District Representative"). Said individual shall have no authority to authorize any activity which will result in any change in the amount payable to X-ENERGY. Such changes, if any, must be by written Change Order issued in accordance with Article 3 to be valid and binding on OWNER.

14. LIMITATION OF LIABILITY

14.1 Neither X-ENERGY nor its subcontractors shall be liable whether arising out of contract, tort (including negligence), strict liability, or any other cause of or form of action, for loss of anticipated profits, loss by reason of plant or other facility shutdown, nonoperation or increased expense of operation, service interruptions, cost of purchased or replacement power, claims of OWNER's customers, subcontractors, vendors or suppliers, governmental fines or penalties assessed or levied against OWNER, loss of use of capital or revenue, cost of money, radioactive contamination, or for any special, indirect, incidental, or consequential loss or damage of any nature arising at any time from any cause whatsoever.

14.2 The total liability of X-ENERGY and its subcontractors, whether arising out of contract, tort (including negligence), strict liability, or any other cause of or form of action shall not exceed the price of this Agreement.

14.3 The liability of X-ENERGY for any claims, whether based upon contract, tort (including negligence), strict liability or otherwise, for any loss or damage arising out of, connected with, or resulting from the performance or breach of this Agreement shall be limited to specifically identified written claims submitted by OWNER to X-ENERGY prior to the expiration of one (1) year after the existence of such claim was, or should with due diligence have been, discovered by OWNER.

14.4 THE LIMITATION OF LIABILITY SET FORTH IN THIS AGREEMENT SHALL NOT APPLY TO CLAIMS OR DAMAGES RESULTING FROM OR IN CONJUNCTION WITH: (a) GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUDULENT ACTS; (b) ANY BREACH OF CONFIDENTIALITY; (c) PROPERTY DAMAGE, INJURY OR DEATH; (d) ANY FINES FOR BREACH OR VIOLATION OF ANY APPLICABLE LAWS, RULES, REGULATIONS; (e) ANY BREACH OF ANY INDEMNIFICATION OBLIGATION SET FORTH IN THIS AGREEMENT; AND/OR (f) CLAIMS MADE UNDER ANY INSURANCE PLACED OR PROVIDED PURSUANT TO THIS AGREEMENT UP TO THE FULL AMOUNT PAYABLE UNDER SUCH INSURANCE POLICY(IES).

15. DELAY IN PERFORMANCE

X-ENERGY shall not be liable for any expense, loss or damage resulting from delay or prevention of performance caused by fires, floods, Acts of God, strikes, labor disputes, labor shortages, reasonable inability to secure materials, equipment, supplies, fuel or other energy shortages, riots, thefts, accidents, epidemics or widespread disease, transportation delays, acts or failure to act of Government or OWNER, delay in obtaining licenses, or major equipment breakdown, or any other cause whatsoever, whether similar or dissimilar to those enumerated above, beyond the reasonable control of X-ENERGY. In the event of any delay arising by reason of any of the foregoing, the time for performance and any other affected provisions of the Agreement including price shall be equitably adjusted provided such adjustments are first authorized in accordance with Article 3, Change Orders, when there are impacts to the term or not to exceed amount of the Agreement.

16. CHANGES

16.1 By OWNER

OWNER may request that changes be made in the Work to be performed. X- ENERGY will negotiate with OWNER in good faith to promptly accept the proposed change or reject it as outside the scope of this Agreement, or beyond X-ENERGY's then current capabilities or available resources. If the parties agree that a change is to be made, the price, schedule, and other affected provisions of the Agreement will be equitably adjusted by mutual agreement via Change Order in accordance with Article 3 prior to implementation of the change. If OWNER proposes a change which requires analytical or investigative work to determine the feasibility, method, or cost of making the change, OWNER shall pay X-ENERGY at its then current standard commercial rates for such analytical or investigative work.

16.2 By X-ENERGY

X-ENERGY may request changes in the Work to be furnished hereunder without change in price if such changes will not adversely affect its warranties, the technical soundness of the Work, or the time of performance. X-ENERGY shall obtain OWNER’s approval of any such proposed change.

16.3 Changes to Other Equipment, Services, or Facilities

In no event shall X-ENERGY be obligated to make, or to bear the expense of making any changes (including modifications or additions) in any equipment, material, service, or other part of OWNER's facilities, whether or not such changes are required as a result of the Work.

17. OPERATION OF OWNER’S EQUIPMENT - INTERPRETATION OF DATA

17.1 All operation of OWNER’s equipment shall normally be performed by the OWNER.

17.2 Where applicable, X-ENERGY’s personnel shall advise and consult with OWNER concerning data generated or obtained in connection with the performance of any task under this Agreement. However, OWNER accepts total responsibility for the analysis or interpretation of such data and for judging what actions are required as the result of the data generated or obtained or any analysis or interpretation thereof.

18. PROPRIETARY INFORMATION

The Parties are bound by the terms and conditions set forth in the Mutual Non-Disclosure Agreement executed at the time of this Agreement and incorporated herein as Appendix D.

OWNER understands that special techniques in the arts and sciences, developed or accumulated by X-ENERGY at its own time and expense, will be employed to benefit OWNER under this Agreement, and agrees

that such special techniques are proprietary and shall not be disclosed to any third party during or subsequent to the term of this Agreement without X-ENERGY's prior written consent.

19. OWNERSHIP OF WORK PRODUCT/COPYRIGHT

19.1 All deliverables under this Agreement, including but not limited to study plans, results, drafts, charts, graphs, videos, summaries, and any other forms of presentation, collectively referred to as "Work Product" shall be owned by OWNER. For the purpose of this Agreement, Work Product shall mean the physical or electronic embodiment of the "issued for use" (i.e., REV 0 (or equivalent nomenclature), as may be subsequently modified from time to time by the Parties) study plans, drawings, results, reports, charts, analyses and videos and any other form of presentation and which are created or provided by X-ENERGY pursuant to this Agreement. Without in any way expanding upon the preceding sentence, but by way of clarification, Work Product shall specifically exclude the following: (i) X-ENERGY tools, processes and procedures employed to perform the services, including referenced proprietary or commercially available software or computer codes; (ii) detailed manufacturing methods, fabrication specifications, assembly packages and the like; and (iii) any Intellectual Property Rights of any kind not embodied in the Work Product.

19.2 OWNER shall have a permanent, assignable, nonexclusive, royalty-free license to use any Work Product developed by X-ENERGY that is required to be furnished or supplied to OWNER as part of this Agreement.

19.3 X-ENERGY acknowledges and agrees that all Work Product is specifically ordered under an agreement with Public Utility District No. 2 of Grant County, Washington, and shall be considered "work made for hire" and "Work Product" for purposes of copyright. All copyright interest in Work Product shall belong to and be the exclusive property of OWNER.

19.4 X-ENERGY shall attach and require each of its subcontractors to attach the following statement to all Work Product:

> ©. PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY, WASHINGTON. ALL RIGHTS RESERVED UNDER U.S. AND FOREIGN LAW, TREATIES AND CONVENTIONS.

19.5 Upon final acceptance or termination of this Agreement, X-ENERGY shall immediately turn over to OWNER all Work Product. This does not prevent X-ENERGY from making a file copy for their records.

19.6 This Article 19 shall not apply to X-ENERGY's proprietary data or patents (see Articles 20 and 21 below). Notwithstanding anything to the contrary contained in this Agreement, it is understood and agreed that X-ENERGY shall retain all ownership rights to its proprietary data, patents, preexisting standards, specifications, computer programs, reference materials, prior existing drawings, methodologies, know how, knowledge, etc. used in connection with its services.

20. DATA

20.1 X-ENERGY shall own, have, and retain the right to publish, use, have used, and permit others to publish, use, and/or have used, any information techniques or data used, developed, or acquired by X- ENERGY in the course of performance of the Work hereunder unless otherwise expressly agreed as a part of this Agreement. In no event shall OWNER obtain any rights in or title to any of X- ENERGY's data or patents.

20.2 During the performance of this Agreement, whether or not required by the Agreement specifications or requested orally or in writing by the OWNER, X-ENERGY may: review and/or comment on information, drawings, data or specifications developed by the OWNER; provide technical information

or make recommendations relative to the overall project though not directly required to permit completion of X-ENERGY's scope of supply hereunder; predict, approximate or advise the suitability of changes in conditions or alternate operating modes relative to the equipment supplied hereunder. In any such event, any recommendations, advice, predictions, or technical data supplied by X-ENERGY will be for information only. In no event shall X-ENERGY be liable, whether arising under contract, tort (including negligence), strict liability or any other form of or cause of action whatsoever, for any loss or damage with respect to use of or damages resulting from the use of any such recommendations, advice, predictions, or technical data.

21. PATENTS

X-ENERGY shall defend at its own expense any suit or action brought against OWNER based on a claim that any Work furnished hereunder, or any part thereof, or the designed use of same, constitutes infringement of any patent of the United States, and X-ENERGY shall also pay all costs and damages awarded therein against OWNER. In case such Work, or any part thereof, is in such suit held to constitute infringement and its use is enjoined, X-ENERGY shall, at its option and own expense either: procure for OWNER the right to continue to use such Work or part thereof; or replace it with substantially equivalent non-infringing Work; or modify it so it becomes non-infringing. OWNER shall not have the right to claim indemnity under this Article unless it provides prompt written notice of the assertion of any claim of infringement to X-ENERGY and makes available all other needed information, assistance, and authority it possesses for the defense of any suit or proceeding in which such claim is asserted.

Any such replacement or modification shall be accomplished subject to the Conditions of Warranty which apply for repair or replacement of defective Equipment under the Warranty article hereof.

The foregoing sets forth the entire responsibility of X-ENERGY with respect to patent infringement.

22. THIRD PARTY BENEFICIARY

No provision of this Agreement is intended or shall be construed to be for the benefit of any third party, except as provided herein with respect to X-ENERGY's subcontractors.

23. ASSIGNMENT

Any attempt to assign this Agreement shall be void unless prior thereto the parties have mutually agreed to assignment by a duly executed agreement. This clause shall not, however, prohibit a transfer resulting from corporate reorganization, merger, or transfer to an affiliate.

24. NOTIFICATION OF CLAIMS

OWNER shall notify X-ENERGY immediately by Registered Mail addressed to X Energy, LLC Contracts Department, 530 Gaither Road, Ste 800, Rockville, MD 20850, of all claims brought against the OWNER for which X-ENERGY may be liable, and X-ENERGY shall notify OWNER immediately by Registered Mail addressed to Public Utility District No. 2 of Grant County, Washington, Attn: General Counsel, PO Box 878, Ephrata, WA 98823 of all claims brought against X-ENERGY for which OWNER may be liable.

25. APPLICABLE LAW

X-ENERGY shall comply with all applicable federal, state, and local laws and regulations including amendments and changes as they occur. All written instruments, agreements, specifications, and other writing of whatsoever nature which relate to or are a part of this Agreement shall be construed, for all purposes, solely and exclusively in accordance and pursuant to the laws of the State of Washington. The rights and obligations of OWNER and X-ENERGY shall be governed by the laws of the State of Washington. Venue of any action

filed to enforce or interpret the provisions of this Agreement shall be exclusively in the Superior Court, County of Grant, State of Washington or the Federal District Court for the Eastern District of Washington at OWNER's sole option. In the event of litigation to enforce the provisions of this Agreement, the prevailing party shall be entitled to reasonable legal fees in addition to any other relief allowed.

26. RECORDS/AUDIT

Until the expiration of three years after final acceptance by OWNER of all the Work, X-ENERGY shall keep and maintain complete and accurate records of its costs and expenses related to the Work or this Agreement in accordance with sound and generally accepted accounting principles applied on a consistent basis. To the extent this Agreement provided for compensation on a cost-reimbursable or time and material basis, X-ENERGY shall, upon reasonable notice from OWNER, provide OWNER access to all such records for examination, copying, and audit.

X-ENERGY shall require all subcontractors to comply with the provisions of this article by including the requirements hereof in a written agreement between X-ENERGY and each subcontractor. X-ENERGY will cooperate fully and cause all of X-ENERGY's subcontractors to cooperate fully in furnishing or in making available to OWNER all such information, materials, and data accordingly.

27. PHYSICAL SECURITY

If any performance under this Agreement is to be conducted on OWNER facilities or worksites that have OWNER security controls in place, it shall be the responsibility of X-ENERGY to ensure that its employees and those of its Subcontractors are informed of and abide by OWNER's Security Policies as if fully set out herein. The applicable policies are provided as part of the training specified in Article 29 below. Without limiting the foregoing, X-ENERGY and its employees shall be required to:

27.1 Keep all external gates and doors locked at all times and interior doors as directed.

27.2 Visibly display ID badges on their person at all times.

27.3 Stay out of unauthorized areas or in authorized areas outside of authorized work hours, without express authorization from OWNER.

27.4 Provide proper notification to the appropriate parties and sign in and out upon entry and exit to secured locations. If unsure of who to notify, X-ENERGY shall contact the District Representative.

27.5 Immediately notify OWNER if any of X-ENERGY's employees no longer need access or have left X-ENERGY's employment.

27.6 Immediately report any lost or missing access device to the District Representative. A minimum charge will be assessed to X-ENERGY in the amount of $50.00 per badge and the fee for lost or non-returned keys may include the cost to re-key the plant facilities. X-ENERGY is strictly prohibited from making copies of keys.

27.7 Not permit 'tailgating' through any controlled access point (i.e. person(s), authorized or unauthorized, following an authorized person through an entry point without individual use of their issued ID badge or key).

27.8 Return all OWNER property, including but not limited to keys and badges, to the District Representative when an individual's access to the facility is no longer needed.

27.9 Guest Wireless: OWNER provides Guest Wireless Internet access to contractors and vendors that need

to conduct business in support of OWNER from personally owned mobile devices such as laptops and smart phones. X-ENERGY personnel are responsible for exercising good judgment regarding appropriate use of information, electronic devices, and network resources.

X-ENERGY and any Subcontractors shall comply with the safety requirements of this Agreement and all OWNER policies pertaining to COVID-19 located at https://www.grantpud.org/for-contractors.

OWNER reserves the right to conduct criminal background checks on its employee(s) before granting such individuals access to restricted areas of OWNER facilities or Protected Information. Criminal background checks may be conducted by the OWNER in such depth as OWNER reasonably determines to be necessary or appropriate for the type of access to be granted.

28. SECURITY, SAFETY AWARENESS TRAINING, DAM SAFETY AWARENESS TRAINING, AND TRANSMISSION AND DISTRIBUTION ACCESS TRAINING

Prior to receiving access to any OWNER facilities, all Contractors, X-ENERGY's employees, subcontractors and subcontractor's employees, material suppliers and material supplier's employees, or any person who will be engaged in the work under this Agreement that requires access to OWNER facilities, shall be required to take and pass OWNER's Security and Safety Awareness training before being issued a security access badge to access OWNER facilities. Under no circumstances will the failure of any Contractor or subcontractor employee to pass the required training, be grounds for any claim for delay or additional compensation.

The Safety and Security Awareness training is available online and is a 20-30 minute training. The training is located at: https://www.grantpud.org/for-contractors. All contractors and their employees are required to successfully complete Safety and Security Awareness training before coming onsite. The Security and Safety certificates should be emailed directly to SecurityTrainingCerts@gcpud.org.

District Representative shall ensure that X-ENERGY's employees, subcontractor's and subcontractor's employees have completed and submitted the certificate of completion for the training in a timely manner to avoid any delay in execution of the work. All such certificates shall be submitted before any security access badges will be issued.

If applicable, Dam Safety Awareness Training is required for Contractors who are performing work in and around Priest Rapids and Wanapum Dams and are badged. The training is available online only and is a 20-30 minute training. X-ENERGY shall ensure that its employees, Subcontractors and Subcontractor's employees have completed, passed, and printed the certificate of completion for the training in a timely manner to avoid any delay in execution of the work. All such certificates shall be submitted to the District Representative before any security access badges will be issued.

If applicable, Transmission and Distribution Access Training is required for Contractors, or their Subcontractors, who may hold a clearance or hotline hold order as part of performance of work under this Agreement. The training is available online only and is a 20-30 minute training. X-ENERGY shall ensure that its employees, Subcontractors and Subcontractor's employees have completed, passed, and printed the certificate of completion for the training in a timely manner to avoid any delay in execution of the work. All such certificates shall be submitted to the District Representative before any security access badges will be issued.

If uncertain which of the above courses must be completed, please contact the District Representative.

29. CONTRACTOR SAFETY REQUIREMENTS

The following applies if X-ENERGY, or any of its sub-consultants, subcontractors, or suppliers of any tier, performs any activities that create a hazard to health or a safety risk for employees on premises owned, leased,

possessed, or controlled by OWNER. X-ENERGY Safety Requirements shall be required when applicable as determined by the District Representative based upon the scope of work. To the extent applicable, X-ENERGY shall ensure that all workers, sub-consultants, subcontractors, and suppliers comply with these requirements. In fulfilling these requirements, X-ENERGY shall also comply with material and equipment manufacturer instructions, and safety and health requirements in accordance with WAC 296-126-094 and this Agreement where applicable. If there are conflicts between any of the requirements referenced in the Agreement, the more stringent requirement shall prevail.

29.1 General

Initial/Warning Notice: Any OWNER employee may notify X-ENERGY of any safety or health concern. The notice may be delivered verbally to any X-ENERGY employee or subcontractor and the OWNER employee shall notify the District Representative of the Notice. Written notification may be provided to X-ENERGY at the discretion of the District Representative. The notice shall have the same effect on X-ENERGY regardless of format or recipient. X-ENERGY shall take immediate action to mitigate the safety and health concerns identified in OWNER's notice.

29.2 Stop Work Order: OWNER employees also have the authority to immediately stop a work activity without issuing the Initial/Warning Notice. The OWNER employee will immediately notify the District Representative of the Stop Work Order. The District Representative may direct X-ENERGY to stop work due to safety and health concerns. The Stop Work Order may cover all work on the Agreement or only a portion of the work. After OWNER issues a Stop Work Order, X-ENERGY shall meet with District Representatives (as determined by the District Representative) to present a written statement outlining specific changes and/or measures X-ENERGY will make to work procedures and/or conditions to improve safety and health. A Stop Work Order can be rescinded only with the written approval of the District Representative.

29.2.1 X-ENERGY shall not be entitled to any adjustment of the Agreement price or schedule when OWNER stops a work activity due to safety and health concerns that occurred under X-ENERGY's, Subcontractor's, or supplier's control which concern is ultimately determined to be a safety violation.

29.2.2 OWNER's conduct does not alter or waive X-ENERGY's safety and health obligations.

29.2.3 X-ENERGY shall provide an onsite Safety Professional as directed by the District Representative based upon number and/or severity of identified safety infractions.

29.2.4 Non-compliance with safety requirements could lead to termination of the Agreement in accordance with Article 9.

29.3 X-ENERGY shall maintain an accurate record of and shall immediately report to the District Representative all cases of near miss or recordable injury as defined by OSHA, damage to OWNER or public property, or occupational diseases arising from, or incident to, performance of work under this Agreement.

29.3.1 The record and report shall include where the incident occurred, the date of the incident, a brief description of what occurred, and a description of the preventative measures to be taken to avoid recurrence, any restitution or settlement made, and the status of these items. A written report shall be delivered to the District Representative within five business days of any such incident or occurrence.

29.3.2 In the event of a serious incident, injury or fatality the immediate group shall stop work. X-ENERGY/subcontractor shall secure the scene from change until released by the authority

having jurisdiction. X-ENERGY shall collect statements of the crew/witnesses as soon as practical. OWNER reserves the right to perform an incident investigation in parallel with X-ENERGY. X-ENERGY, subcontractor, and their workers shall fully cooperate with OWNER in this investigation.

29.3.3 All cases of death, serious incidents, injuries or other incidents, as determined by the District Representative, shall be investigated by X-ENERGY to identify all causes and to recommend hazard control measures. A written report of the investigation shall be delivered to the District Representative within 30 calendar days of any such incident or occurrence.

29.3.4 For situations that meet the reporting requirements of WAC 296-800, X-ENERGY shall self-report and notify the District Representative. The District Representative shall notify OWNER's Safety personnel.

29.4 X-ENERGY/subcontractor shall conduct and document job briefings each morning with safety as an integral part of the briefing. X-ENERGY/Subcontractor shall provide an equivalent job briefing to personnel and/or visitors entering the job site after the original job briefing has been completed for work within their scope. Immediately upon request, X-ENERGY shall provide copies of the daily job briefing and any other safety meeting notes to the District Representative. The notes, at a minimum, shall include date, time, topics, and attendees and shall be retained by X-ENERGY for three years after completion of all work.

29.5 Job Site Reviews Performed by OWNER: X-ENERGY's Site Representative or other lead personnel, if requested by OWNER, shall be required to participate in OWNER job briefs and/or OWNER job site reviews that pertain to other work being performed that may impact X-ENERGY's work.

29.6 OWNER reserves the right to request updated X-ENERGY safety information at any time during the performance of this Agreement. Such updated information will be provided on the attached Appendix E, Contractor Safety Request for Information Form.

30. PROJECT MANAGEMENT CONTRACTOR PARTICIPATION

Project Management is addressed in Appendix A.

31. CHARACTER OF AGREEMENT

OWNER and X-ENERGY recognize that various methods of ordering work of the type which is provided for under this Agreement may be utilized by OWNER during the term of this Agreement. Notwithstanding that some or all of these ordering methods may contain additional or different preprinted terms and conditions and may not strictly conform to the requirements of Article 1, OWNER and X-ENERGY agree that any order for the type of work provided for under this Agreement which is issued during its term shall be governed exclusively by the provisions of this Agreement, and any terms and conditions which may be preprinted on such order are deemed null and void.

32. NON-WAIVER

The failure of either party to insist or enforce in any instance strict performance of any of the terms of this Agreement or to exercise any rights hereunder conferred, shall not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights on any future occasion.

33. INTEGRATION

33.1 There are no understandings between the parties hereto as to the subject matter of this Agreement

(including its Appendices and Attachments) other than as set forth herein.

33.2 All previous communications concerning the subject matter of this Agreement, either oral or written, are hereby abrogated and withdrawn and this Agreement (including its Appendices and Attachments) constitutes the whole agreement between the parties.

33.3 Any and all provisions of this Agreement which expressly apply to X-ENERGY's "subcontractors" shall apply with respect to any subcontractor, supplier, vendor, or other entity, at any tier, involved in any way with the performance of the Work.

33.4 This Agreement may not be changed or modified except by a writing executed by a duly authorized representative of each party.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the day and year hereinabove first written.

X Energy, LLC		Public Utility District No. 2 of Grant County, Washington	
By:	_____	By:	_____
Name:	_____	Name:	_____
Title:	_____	Title:	_____
Date:	_____	Date:	_____

APPENDIX A – SCOPE OF WORK

See X-ENERGY Proposal No. XEP2025-010-GCPUD CON-0 REV 1, dated September 16, 2025

APPENDIX B - RATE SCHEDULE

DIRECT EXPENSES:

X-ENERGY Rates:

XE Positions	Xenergy Rate 2025	Xenergy Rate 2026
Engineer 1	$ 151.44	$ 158.02
Engineer 2	$ 177.33	$ 185.19
Engineer 3	$ 194.84	$ 203.58
Engineer 4	$ 210.70	$ 220.24
Engineer 5	$ 230.08	$ 240.58
Engineer 6	$ 253.58	$ 265.25
Technical Support 1	$ 139.16	$ 145.12
Technical Support 2	$ 171.20	$ 178.76
Technical Support 3	$ 181.99	$ 190.09
Technical Support 4	$ 196.89	$ 205.74
Technical Support 5	$ 206.12	$ 215.42
Technical Support 6	$ 218.25	$ 228.17
Engineering Manager 1	$ 218.30	$ 228.21
Engineering Manager 2	$ 251.77	$ 263.36
Engineering Manager 3	$ 273.46	$ 286.14
Project Support 1	$ 123.48	$ 128.66
Project Support 2	$ 139.22	$ 145.18
Project Support 3	$ 154.11	$ 160.81
Project Support 4	$ 168.99	$ 176.44
Project Support 5	$ 188.90	$ 197.35
Project Support 6	$ 208.81	$ 218.25
Project Manager 1	$ 155.63	$ 162.42
Project Manager 2	$ 219.13	$ 229.08
Project Manager 3	$ 230.65	$ 241.18
Project Manager 4	$ 236.68	$ 247.51
Project Manager 5	$ 242.70	$ 253.84
Project Manager 6	$ 275.36	$ 288.12
SME 1	$ 284.70	$ 297.94
SME 2	$ 331.19	$ 346.75
Principal	$ 365.60	$ 382.88
Sr Principal	$ 441.20	$ 462.26

Fixed hourly billing rates shall be in US Dollars and include all i) payroll, payroll taxes and fringe benefits; ii) all reproduction and printing costs including electronic media; iii) communications costs including all phones, faxes, internet, postage, shipping, delivery, couriers; iv) computer, software, printers, scanners, office machines and related costs of operations including consumables; v) insurance costs; vi) indirect and overhead burden; and vii) profit.

REIMBURSABLE EXPENSES:

Reimbursable expenses are those reasonable and necessary costs incurred on or directly for OWNER's project, including necessary transportation costs, meals, and lodging. Any actual expenses in non-US dollars will be converted using the conversion tables at www.x-rates.com for the applicable period. Reimbursement will be subject to the following limitations:

Meals and Incidental Expenses: Meals and incidental expenses will be limited to the Federal Per Diem rate for meals and incidentals established for the location where lodging is obtained. Federal Per Diem guidelines which include the meal breakdown and Federal Per Diem rates for other locations can be found at www.gsa.gov.

Lodging: Lodging will be billed at cost, including applicable taxes, not to exceed 200% of the Federal Per Diem maximum lodging rate for the location where the work is being performed. Federal Per Diem rates can be found at www.gsa.gov. The District Representative may increase this limit in writing when circumstances require.

Travel: Air travel (at coach class or equivalent), airport shuttles, etc. billed at cost. Ground transportation by privately owned vehicle, if utilized, billed at the Internal Revenue Service mileage rate for privately owned vehicles in effect at the time of travel. Expenses for a rental car, at cost, in the ratio of one mid-size class rental car for each three X-ENERGY personnel directly engaged in performance of the work at the prevailing rental rates then in effect. Rental car options such as refueling fees, GPS, collision & liability insurance, etc. will not be reimbursed by OWNER unless such options are approved in advance by the District Representative. **Appropriate insurance coverage should be included in X-ENERGY's insurance policies.**

Other: All other expenses will be based on actual costs and include appropriate documentation.

Reimbursable expenses must be accompanied by receipts for airfare, hotel, and rental car, and any other support documentation as OWNER may require.

APPENDIX C – CHANGE ORDER FORM
CHANGE ORDER NO. __

Pursuant to Article 3, the following changes are hereby incorporated into this Agreement:

1. Description of Change:

2. Time of Completion:

3. Agreement Price Adjustment:

4. Except as specifically provided herein, all other Agreement terms and conditions shall remain unchanged.

Public Utility District No. 2 of Grant County, Washington	X-Energy LLC
Accepted By: _____	Accepted By: _____
Name of Authorized Signature Title	Name of Authorized Signature Title
Date: _____	Date: _____

APPENDIX D – MUTUAL NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement ("NDA"), effective on the date of the last signature below, is by and between Public Utility District No. 2 of Grant County, Washington ("District"), and X Energy, LLC., a Maryland limited liability company ("X-Energy"), sometimes collectively referred to as the "Parties."

RECITALS

The District and X-Energy are Parties to Professional Services Agreement 430-12500 to assess the feasibility for the District to build, own and operate an Xe-100 SMR plant to serve future energy needs and will be required to disclose Proprietary Information during the term of the Professional Services Agreement ("Purpose").

It is the intent of the Parties that this NDA supersede and replace the Mutual Nondisclosure Agreement executed by the Parties on January 11, 2024.

NOW, THEREFORE, the Parties agree as follows:

1. Definitions

   "Owner" - the owner of Proprietary Information.

   "Proprietary Information" - all financial, technical and other non-public or proprietary information which is furnished or disclosed orally, in writing, electronically or in other form or media by Owner or its Representatives to Recipient or its Representatives in connection with the Purpose and that is described or identified (at the time of disclosure) as being non-public, confidential or proprietary, or the non-public or proprietary nature of which is apparent from the context of the disclosure or the contents or nature of the information disclosed.

   "Recipient" - a Party to which the Owner or its Representatives discloses Proprietary Information.

   "Representative(s)" - the officers, directors, members, managers, employees, contractors, financial service providers, and other representatives of a Party.

2. No partnership, joint venture, agency, or other business relationship is intended by the Parties or created by this NDA.

3. No Party has an obligation to supply Proprietary Information or any other information hereunder except as may be mutually agreed to facilitate the Purpose.

4. Nothing in this NDA shall be deemed to grant a license directly, indirectly or otherwise under any patent or patent application or copyright related to any information to which this NDA applies.

5. The Recipient shall hold in confidence, and shall not, directly nor indirectly, reveal, report, transmit or disclose the Owner's Proprietary Information to any person outside the Recipient's organization (other than professional consultants who have been retained by Recipient), and shall use such Proprietary Information only for the purpose for which it was disclosed. Recipient may disclose Owner's Proprietary Information to Representatives within the Recipient's organization and to any professional consultants who have been retained by Recipient, who have a need to know such Proprietary Information in the course of the performance of their duties.

6. The obligations of Recipient specified in Section 5 above shall not apply, and the Recipient shall have no further obligations with respect to any Proprietary Information which is:

A. Rightfully in the public domain prior to receipt by the Recipient or becomes rightfully in the public domain after receipt by the Recipient without violation by the Recipient of the terms of this NDA;

B. Known, as evidenced by documentation reasonably satisfactory to Owner, to the Recipient without restriction prior to disclosure by the Owner;

C. Independently developed without any wrongful means by employees of the Recipient who did not have access to the Proprietary Information;

D. Disclosed without restriction to the Recipient by a third party having a bona fide right to disclose the same;

E. Disclosed with the prior written approval of Owner;

F. Later rendered nonproprietary through the issuance of a patent or other publicly available instrument, or which legitimately comes into the public domain; or

G. Required to be released by law or court order, provided, however, that the Owner shall be provided notice and an opportunity to seek a protective order as specified in Section 7. The Recipient shall reasonably cooperate with Owner's efforts to secure a protective order.

7. In the event a request for or order to release Proprietary Information is made to either Party pursuant to the Washington State Public Records Act, other law, regulation, or government or court order, the Recipient shall, prior to disclosure of said Proprietary Information, provide the Owner of the Proprietary Information with five (5) days written notice of the impending release thereof so as to allow the Owner the option of negotiating proprietary protection for the information, seeking a protection order, approving release of the information or defending any legal action that is brought to enforce such request. In such event, the Owner shall bear its costs of the litigation, any damages or attorney's fees that may be awarded and reimburse the Recipient for any out-of-pocket expenses incurred in providing such support to the Owner. If the Owner has not obtained a protection order, negotiated protection for the information, or taken other action within the five (5) day period, the Recipient may disclose the Proprietary Information without further liability. In no event shall the Recipient be liable for any release which is either compelled from the Recipient by process of law, or where notice was provided and the Owner took no action to oppose the release of information.

8. This NDA shall become effective upon the last date shown on the signature page and shall terminate upon termination of Professional Services Agreement 430-12500. Upon termination or expiration of this NDA, each Recipient, at the request of the Owner, shall return all Proprietary Information delivered under this NDA, including all copies and work product containing such Proprietary Information unless Recipient is required to retain it pursuant to applicable law.

9. Any notice or other communication under this NDA given by either Party shall be sent via email to the email address listed below, or mailed, properly addressed and stamped with the required postage, to the intended recipient at the address and to the attention of the person specified below and shall be deemed served when received and not mailed. Either Party may from time to time change such address by giving the other party notice of such change.

District	X-Energy
Public Utility District No. 2 of Grant County, Washington Attn: Senior Manager Large Power Solutions PO Box 878 Ephrata, WA 98823 LargePowerSolutions@gcpud.org With a copy to Legal@gcpud.org	X Energy, LLC Attn: Jennifer Doan, Manager, Contracts 530 Gaither Road, Suite 800 Rockville, MD 20850 Phone: 301-637-0868 Email: jdoan@x-energy.com

10. This NDA is made under, and shall be construed according to, the laws of the State of Washington and the Parties agree to the exclusive jurisdictions of the state courts and U.S. Federal courts located there for any dispute arising out of this NDA. Venue for any action brought pursuant to this NDA shall, at the District's option, be in Grant County Superior Court, Grant County, Washington or in the United States District Court for the Eastern District of Washington. Further, Recipient agrees that in the event of any breach or threatened breach by Recipient, Owner may obtain, in addition to any other legal remedies which may be available, such equitable relief as may be necessary to protect Owner against any such breach or threatened breach.

11. This NDA may not be assigned without the express written consent of both Parties.

12. This NDA constitutes the entire understanding of the Parties on the subject matter hereof and may be amended or modified only by a written agreement instrument executed by the authorized Representatives of all Parties and shall be binding upon the Parties and their respective successors and assigns.

13. This NDA may be signed in counterparts, each of which shall be an original, but all of which shall constitute one and the same document. Signatures transmitted electronically shall be deemed valid execution of this NDA, binding on the parties.

14. This NDA shall supersede and replace the Mutual Nondisclosure Agreement executed by the Parties on January 11, 2024.

IN WITNESS WHEREOF, the Parties have caused this NDA to be signed by their duly authorized representatives as of the dates written below.

Public Utility District No. 2 of Grant County, Washington		X Energy, LLC	
By:	_____	By:	_____
Name:	_____	Name:	_____
Title:	_____	Title:	_____
Date:	_____	Date:	_____

APPENDIX E – CONTRACTOR SAFETY INFORMATION REQUEST FORM

Contractor Company Name:		Prepared By:	
Address:		Title:	
		Phone #:	
		Date:	

Years in business under current company name: _____

PRINCIPAL BUSINESS ACTIVITY:

- ☐ Blasting/Painting
- ☐ Cranes
- ☐ Excavation
- ☐ Heavy Transport
- ☐ Labor Service
- ☐ Scaffold
- ☐ Instrumentation
- ☐ Lead/Asbestos Abatement
- ☐ Cement Work
- ☐ Drilling
- ☐ General Construction
- ☐ Hydro-Blasting/Cleaning
- ☐ Machining
- ☐ Welding/Piping
- ☐ Electrical
- ☐ Other _____

A. *EXPERIENCE MODIFICATION RATE:*

Provide the following health, safety, and environmental (HSE)-related information:

List your company's interstate or intrastate (if applicable) Experience Modification Rate (EMR) for the three (3) most recent years, as evidenced in workers' compensation insurance premiums:

Last Year: _____ 2-Years Ago: _____ 3-Years Ago: _____

Higher rates may require a corrective action plan for your company. Provide a copy of the letter from your insurance broker or insurance company evidencing the rate for the last 3 years.

☐ Check this box if your company has less than the minimum number of employees required by law to carry workers' compensation insurance or if your company does not have an EMR. (If checked, provide a letter from your insurance company stating this.)

Fill in the following information for the last three available years (use your OSHA 300 Logs)		Last Year	2-Yrs Ago	3-Yrs Ago
(A)	Number of fatalities each year			
(B)	Number of lost workday/restricted activity each year			
(C)	Recordable injury cases each year			
(D)	Total hours each year (do not include non-work time, even though paid)			
(E)	Injury incident rate = ***NO. OF RECORDABLE INJURIES x 200,000*** / ***TOTAL HOURS FOR YEAR***			

If your company experienced a work-related fatality during this period, provide a brief description of the causes and corrective actions taken. ☐ N/A

Has Washington State Labor & Industries, OSHA, EPA, or other State or Federal enforcement agency(s) cited and assessed penalties against your company for any "serious," "willful" or "repeat" violations in the past five years? ☐Yes ☐ No

If "yes," attach a separate page describing the citations, including information about the dates of the citations, the nature of the violation, the project on which the citation(s) was or were issued, the amount of penalty paid, if any. If the citation was appealed to the agency Appeals Board and a decision has been issued, state the case number and the date of the decision.

NOTE: If you have filed an appeal of a citation and the agency appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.

Does your company have a written HSE program?	☐Yes	☐No
If yes, attach a copy or a summary of your program, including HSE policy you may have.		
Have an orientation program for new hires?	☐Yes	☐No
Have training program for newly hired/promoted foremen and supervisors?	☐Yes	☐No
Do you hold workplace HSE meetings for supervisors?	☐Yes	☐No
If yes, how often? ☐Daily ☐ Weekly ☐Biweekly ☐Monthly ☐As Needed		
Do you hold employee "toolbox" HSE meetings?	☐Yes	☐No
If yes, how often? ☐Daily ☐ Weekly ☐Biweekly ☐Monthly ☐As Needed		
Do you conduct pre-task HSE planning meetings with employees?	☐Yes	☐No
If yes, briefly describe the program format and/or attach a copy.		
Do you conduct workplace HSE inspections?	☐Yes	☐No
If yes, who conducts this inspection? How often? ☐Daily ☐ Weekly ☐Biweekly ☐Monthly ☐As Needed		
Is the company a member of any external HSE program that awards certificates of recognition?	☐Yes	☐No
If yes, list certificates of recognition your company has received within the past 3 years:		

	Indicate elements included in your overall HSE program	HSE Program	New Hire Training	Supervisor/ Foreman Training
	Corporate HSE Policy			
	HSE Workplace Committee			
	HSE Inspections and Audits			
	Personal Protective Equipment			
	Hazard Assessment and Communication			
	Task Assignment Training			
	Respiratory Protection			
	Fall Protection			
	Scaffolding and Ladders			
	Perimeter Guarding			
	Housekeeping			
	Fire Protection/Prevention			
	First- Aid Procedures/Facilities			
	Emergency Procedures			
	Toxic Substances/Hazard Communication			
	Trenching and Excavation			
	Signs, Barricades, and Flagging			
	Electrical Safety			
	Rigging and Crane Safety			
	Safe Work Practices			
	Safety Supervision			
	Toolbox/Workplace HSE Meetings			
	Incident Investigation/Reporting			
	Abrasive Blasting Safety			
	Substance Abuse			
	Vehicle Safety			
	Use of Compressed Gas Cylinders			
	Welding/Cutting			
	Medical Evaluation			
	Blood borne Pathogens			
	Employee Discipline			
	High-Pressure Water Cleaning			
	Hot Taps			
	Noise/Hearing Conservation			
	Heat/Cold stress			
	Incentives/Awards for HSE Achievements			
	Spill Prevention/Response			
	Dust Suppression			
	Wastewater/Storm Water Management			
	Hazardous Waste and Solid Waste Management			
	Equipment Emissions			
	Wetlands/Sensitive Habitats			

THIS INFORMATION MUST BE FURNISHED TO GRANT PUD PRIOR TO THE EXECUTION OF ANY AGREEMENT OR ONSITE LABOR.

For further information or assistance in meeting these requirements, please contact the designated District Representative.

REVIEW/APPROVAL SIGNATURES OWNER USE ONLY	
REQUIRED SIGNATURE SAFETY: _____ DATE _____	
DISTRICT REP. _____ DATE _____	☐ RECEIVED ☐ FURTHER REVIEW