This Working Draft does not constitute a binding offer, shall not form the basis for an Agreement by estoppel or otherwise, and is conditioned upon selection of the bidder, execution, and each party’s receipt of all required management and board approvals in their sole discretion (including final credit and legal approvals). Any actions taken by a party in reliance on the terms set forth in this Working Draft or on statements made during negotiations relating to this Working Draft shall be at that party’s own risk. Until the Definitive Agreement is negotiated, approved by all appropriate parties and executed by each party’s authorized signatory, no party shall have any legal obligations, expressed or implied, or arising in any other manner under this Working Draft or in the course of negotiations. any assertion to the contrary in any proceeding or action regarding this Working Draft shall render this Working Draft null and void in its entirety. during discussions and negotiations any party may change its position on any matter, whether or not set forth in or based upon this Working Draft, any other document or any course of dealing, at any time or for any reason.

SOLAR ASSETS PURCHASE AND SALE AGREEMENT

Dated as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2013

By and between

PACIFICORP

as Purchaser

and

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

as Seller

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SOLAR ASSETS PURCHASE   
AND SALE AGREEMENT

THIS SOLAR ASSETS PURCHASE AND SALE AGREEMENT (this "Agreement") is dated as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2013 between PacifiCorp, an Oregon corporation ("Purchaser") and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ("Seller").

**RECITALS**

A. Purchaser desires to acquire solar energy generation facilities in the State of Oregon having an output of not more than \_\_\_\_\_\_\_megawatts alternating current (\_\_\_\_\_\_ MW ac).

B. Seller is in the process of developing a solar energy generation project (the "Project") on land owned by Seller in \_\_\_\_\_\_\_\_\_\_ County, Oregon.

C. Purchaser desires to acquire the Project from Seller, and Seller desires to sell the Project to Purchaser, in accordance with the terms hereof.

**AGREEMENT**

NOW THEREFORE, in consideration of the sums to be paid to Seller by Purchaser, and the covenants and agreements set forth herein, the Parties hereto agree as follows:

# ARTICLE 1 DEFINITIONS AND RULES OF INTERPRETATION

## Defined Terms.

For purposes of this Agreement, the following terms shall have the following meanings:

"Acquired Assets". All of Seller’s and its Affiliates’ right, title and interest in and to all properties, assets and rights of any kind, whether tangible or intangible, real or personal, owned (or hereafter acquired) by Seller or its Affiliates or in which Seller or its Affiliates has (or hereafter acquires) any interest whatsoever in connection with the Project; provided, however, that the Acquired Assets shall not include (i) any corporation, limited liability company or other legal entity formed by or constituting Seller or its Affiliates, qualifications to conduct business as a foreign corporation or other entity, arrangements with registered agents relating to foreign qualifications, taxpayer and other identification numbers, seals, minute books, and other documents relating to the organization, maintenance, and existence of Seller or its Affiliates as business entities, (ii) any of the rights of Seller under this Agreement or the EPC Agreement, (iii) the rights of Seller or its Affiliates to the Co-Located Project; and (iv) those items listed on Schedule 1.1; provided, further, that the Acquired Assets shall specifically include all right, title and interest of Seller and its Affiliates in and to the following assets:

1. the Contracts;
2. the Interconnection Agreement;
3. the Collection System Easements;
4. the CUP;
5. the Reports;
6. the Warranty Rights;
7. the original Books and Records (Seller may retain copies); and
8. All equipment and fixtures constituting or relating to the Project, including the solar panels and related equipment.

"Acquisition Transaction". The term shall have the meaning set forth in Section 6.13.

"Affiliate". With respect to any Person, any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with that Person. The term "control" (including, with correlative meaning, the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or partnership interests, by contract or otherwise. Without limiting the generality of the foregoing, Affiliates of Seller include \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_..

"After Tax Basis". (1) for purposes of any provision of this Agreement that requires a payment to be made on an After-Tax Basis, such payment shall be made in an amount equal to the sum of (i) the payment to be made before adding the amounts referred to in clause (ii) of this sentence (the base payment) and (ii) an amount equal to the sum of any and all Taxes paid or required to be paid by or on behalf of the payee as a result of receipt or recognition of such payment (including any Taxes on such additional amounts) (the "additional payment"); *provided, however,* that no additional payment shall be payable if (a) the base payment is not includible in the payee’s gross income, (b) the base payment is being made to compensate the recipient for a loss or expense that is deductible or non-taxable for federal income tax purposes, or (c) the base payment compensates the payee for failure to receive an amount, other than a base payment, that would have been includible in the recipient’s gross income, had such amount been received, so that the net amount actually received and retained by the payee after payment of all Taxes on the base amount and the additional amount is equal to the payment otherwise required to be made to the payee under any provision of this Agreement; and (2) for purposes of determining the After-Tax Basis, Seller and Purchaser shall each be deemed to be subject to a marginal tax rate of thirty-eight percent (38%).

"Agreement". This Solar Assets Purchase and Sale Agreement, including all Exhibits and Schedules (as such Schedules may be updated in accordance with Section 5.4) hereto, as the same may be modified, amended or supplemented from time to time in accordance with Section 11.4.

"Approved Plans". The term shall have the meaning set forth in Section 2.2.2.

"Assignment and Assumption Agreements". The term shall have the meaning set forth in Section 3.1.1.

"Assumed Liabilities". Those obligations accruing or arising under, from, or with respect to the Acquired Assets from and after the Closing Date, including any liability for Taxes. Without in any way broadening the scope of Assumed Liabilities as described in the preceding sentence, Assumed Liabilities shall not include: (i) any liability of Seller or its Affiliates for Taxes accruing or arising before the Closing Date (unless subject to proration pursuant to Section 2.5.1), (ii) any liability of Seller or its Affiliates for the unpaid Taxes of any Person under Reg. § 1.1502-6 (or any similar provision of state or local Law), as a transferee or successor, by contract, or otherwise, (iii) any liability of Seller or its Affiliates for costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby, (iv) any liability or obligation of Seller or its Affiliates entered into on or after the Closing Date or (v) any liability or obligations set forth on Schedule 2.1.

"Authority". Any federal, state, local or other governmental, judicial, public or statutory instrumentality, tribunal, agency, authority, body or entity, or any political subdivision thereof having legal jurisdiction over the matter or Person in question.

"BETC". The Oregon Business Energy Tax Credit Program administered by the Oregon Department of Energy pursuant to ORS 469B.100-469B991.225.

"Bill of Sale". The term shall have the meaning set forth in Section 3.1.2.

"Books and Records". Any and all data, reports, correspondence, maps, surveys and other business records relating to the Project that are generated or obtained by Seller prior to Closing, but excluding: (i) any documents related to bids received to construct the Project other than from Contractor; and (ii) any documents related to efforts to sell the Acquired Assets to parties other than Purchaser.

"Business Day". Any day other than Saturday or Sunday or holiday, on which banks are generally open for business in Portland, Oregon.

"Cap". The term shall leave the meaning set forth in Section 9.5.1(ii).

"Claim Notice". The term shall have the meaning set forth in Section 9.6.1.

"Closing". The term shall have the meaning set forth in Section 2.3.

"Closing Date". The term shall have the meaning set forth in Section 2.3.

"Co-Located Project". That certain solar energy generation project that Seller or its Affiliate may construct on other real property adjacent to the Property. The Co-Located Project may share with the Project the use of Collection System Easements and/or, subject to Purchaser's prior approval, certain Facilities.

"Code". 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.

"Collection System Easements". Easements, if any, for the construction and operation of the electrical collection system required to transmit power from the solar photovoltaic (PV) panels within the Project to the point of interconnection with the transmission grid. Purchaser approves the use of public rights-of-way for the electrical collection system without execution of a separate easement therefor.

"Confidential Information." The term shall have the meaning set forth in Section 8.2.

"Consents". The term shall have the meaning set forth in Section 8.1.

"Contract". Any of the agreements or contracts to which Seller or its Affiliates is a party with respect to the Project, including those described in Schedule 6.14 of this Agreement.

"Contractor". \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, or its Affiliate, but only if Purchaser, acting reasonably (which may include requiring a guaranty or other credit support from a credit-worthy entity), consents to such Affiliate being the Contractor.

"Corporate Documents". With respect to any Person, the certificate or articles of incorporation, bylaws, certificate of formation or articles of organization, the limited partnership agreement, the partnership agreement or the limited liability company agreement, or any other organizational documents of the Person, including those that are required to be registered or kept in the place of incorporation, organization or formation of the Person and that establish or govern the existence of the Person as a legal entity.

**"Credit Rating"  is defined as the lower of: x) the most recently published senior, unsecured long term debt rating (or corporate rating if a debt rating is unavailable) from Standard & Poor’s (S&P) or y) the most recently published senior, unsecured debt rating (or corporate rating if a debt rating is unavailable) from Moody’s Investor Services. If option x) or y) is not available, the Credit Rating will be determined by the Buyer through an internal process review utilizing a proprietary credit scoring model developed in conjunction with a third party.**

"Cultural Study". The cultural study with respect to the Property delivered to Purchaser which demonstrates that there are no cultural resource conditions with respect to the Property that could have a Material Adverse Impact on the Project, as such cultural study may be revised and redelivered to Purchaser pursuant to Section 5.3.

"CUP". The term shall have the meaning set forth in Section 3.6.

"Deposit". The term shall have the meaning set forth in Section **Error! Reference source not found.**.

"Effective Date". The date this Agreement is signed by the last of the Parties hereto.

"Encumbrances". Any claim, lien, pledge, mortgage, option, charge, easement, license, security interest, right‑of‑way, encumbrance, lease, interest, mineral reservations, covenant, conditional sales contract, title retention arrangement, adverse claim or restriction of any kind or other right of third parties.

"Environmental Laws". All Laws that regulate or relate to (i) the protection or clean-up of the environment; (ii) the production, use, treatment, storage, transportation, generation, manufacture, processing, distribution, disposal, emission, discharge, Release or threatened Release of Hazardous Substances; (iii) the preservation or protection of waterways, groundwater, drinking water, air, wildlife, plants or other natural resources; and (iv) the health and safety of persons or property as it pertains to the environment, including protection of the health and safety of employees. Environmental Laws shall include the Resource Conservation & Recovery Act, Clean Water Act, Safe Drinking Water Act, Occupational Safety and Health Act, Toxic Substances Control Act, Clean Air Act, Comprehensive Environmental Response, Compensation and Liability Act, Emergency Planning and Community Right-to-Know Act, Hazardous Materials Transportation Act, and Centers for Disease Control guidelines, policies and procedures, and all analogous or related Laws.

"EPC Agreement". That certain Turnkey Engineering, Procurement and Construction Agreement for Solar Photovoltaic Generating Facility between Seller and Contractor, pursuant to which Contractor agrees to perform certain services in respect of the further development of the Project, and that will be executed by Seller and Contractor concurrently with the execution of this Agreement.

"EPC Consent". That certain Consent and Agreement, dated as of the Effective Date, among Seller, Purchaser and Contractor.

"Expiration Date". The term shall have the meaning set forth in Section 9.2.1.

"Facilities". The solar photovoltaic (PV) power generating facilities (including the foundations, inverters, solar photovoltaic panels, electrical collection system, solar tracking systems, access roads and other equipment, materials and improvements associated therewith), for a total of \_\_\_\_\_\_\_\_\_ MW dc nameplate capacity (\_\_\_\_\_\_ MW ac), which constitute the Project.

"Geotechnical Report". The geotechnical report delivered to Purchaser which demonstrates that, on the basis of representative sampling, there are no adverse soil or other geologic conditions at the Property that could have a Material Adverse Impact on the Project as such Geotechnical Report may be revised and redelivered to Purchaser pursuant to Section 5.3.

"Governmental Approval". Any authorization, approval, consent, waiver, exception, variance, order, publication, license, filing, registration, ruling, permit, tariff, certification, exemption and other action, requirement by or with, and notice to and declarations of or with, any Authority that are required in connection with the development, construction, ownership and operation of the Project.

"Guarantor". \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

"Guaranty". The Guaranty Agreement in the form of Exhibit B executed by Guarantor and delivered concurrent with the full and mutual execution of this Agreement.

"Hazardous Substances". All pollutants, contaminants, chemicals, wastes (including medical and infectious wastes), and any other carcinogenic, ignitable, corrosive, reactive, toxic, or otherwise hazardous substances or materials (whether solids, liquids or gases), including but not limited to any substances, materials, or wastes subject to regulation, control, or remediation under Environmental Laws.

"Indemnified Party". The term shall have the meaning set forth in Section 9.6.1.

"Indemnitor Party". The term shall have the meaning set forth in Section 9.6.1.

"Interconnection Agreement". The term shall have the meaning set forth in Section 3.2.

"Laws". Any law, statute, rule, regulation, ordinance, standard, code, order, judgment, decision, writ, injunction, decree, certificate of need, award or other governmental restriction and any policy or procedure issued or enforced by any Authority.

"Material Adverse Impact". Any effect (or effects taken together) that is materially adverse to:

(a) the business, operations (including results of operation), assets, liabilities or condition (financial or otherwise) of the Project other than any effect resulting or arising from (i) any change in general economic conditions in the industries or markets in which Purchaser operates; (ii) any outbreak or escalation of hostilities or other national or international calamity or crisis or change in economic or political conditions, whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack occurring prior to, on or after the date of this Agreement; (iii) proposed or adopted legislation or any other proposal or enactment by any Authority; (iv) changes in accounting requirements or principles or the interpretation thereof; or (v) the entry into or announcement of this Agreement;

(b)   the Project’s ability to operate and deliver energy;

(c) the ability of Seller, Contractor or Guarantor to perform its respective obligations in accordance with the agreements to which it is, respectively, a party; or

(d) the ability of Purchaser to enforce any of its material rights and remedies under the Contracts or the Collection System Easements after Closing.

"PacTrans". PacifiCorp, acting through its transmission division.

"Party". Purchaser or Seller individually; and "Parties" means Purchaser and Seller collectively.

"Permits". All licenses, consents, certificates, approvals, permits and any authorizations of any sort whatsoever by or from any Authority, including any certificates of need, provider numbers and accreditation necessary for the development and construction of the Project.

"Permitted Liens". With respect to the Property: (a) liens for property taxes and installments of assessments and charges of Authorities not yet due and payable as of the Closing Date, (b) liens incurred in the ordinary course of business (including inchoate workman’s and mechanics liens and inchoate liens incurred in connection with worker’s compensation, unemployment insurance, social security and other Laws) which do not secure any amounts currently due and which do not currently present any risk of sale of the property subject to the lien, (c) prior to the Closing Date, liens incurred in the ordinary course of business which are discharged in full by the Closing Date, (d) liens created by the act or omission of Purchaser, and (e) the matters affecting title listed in Schedule 2.3.2. Notwithstanding the foregoing, all monetary liens or monetary encumbrances on the Property suffered or created by Seller, except for liens of general and special taxes and assessments not yet due and payable are not Permitted Liens and shall be eliminated by Seller on or prior to the Closing Date.

"Person". Any individual, corporation, partnership, joint venture, association, joint stock company, trust, limited liability company, decedent’s estate, organization, entity, or unincorporated organization or any Authority.

"Phase I Environmental Assessment". The Phase I Environmental Assessment with respect to the Property delivered to Purchaser which demonstrates that there are no environmental conditions with respect to the Property that could have a Material Adverse Impact on the Project, as such Phase I Environmental Assessment may be revised and redelivered to Purchaser pursuant to Section 5.3.

"Preliminary Certificate". The document issued by the Oregon Department of Energy pursuant to ORS 469.210(c) certifying that the acquisition, erection, construction and installation of the Project is approved for the BETC and specifying the maximum Project capital cost eligible for the BETC.

"Project". The complete integrated solar-powered electricity generating plant (including the Facilities) with a nameplate capacity of \_\_\_\_\_\_\_\_\_ MW dc to be located on the Property to be developed, designed, procured, constructed, tested and commissioned by Seller and Contractor.

"Property". The real property owned by Seller in \_\_\_\_\_\_\_\_\_\_\_\_ County, Oregon, and more particularly described in Exhibit A hereto, including any fixtures thereon.

"Purchase Price". The term shall have the meaning set forth in Section 2.2.

"Purchaser". PacifiCorp, an Oregon corporation.

"Purchaser Damages". The term shall have the meaning set forth in Section 9.3.1.

"Purchaser Documents". The term shall have the meaning set forth in Section 7.2.

"Purchaser Indemnitee". The term shall have the meaning set forth in Section 9.3.1.

"Purchaser’s Knowledge". The actual and current knowledge, after reasonable inquiry, of any of the following Persons: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

"Release". Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment or the workplace of any Hazardous Substance, and otherwise as defined in any Environmental Law.

"Reports". The Phase I Environmental Assessment, the Cultural Study, the Geotechnical Report, the Wetlands Study, the Survey, the System Impact Study, the Title Abstracts and the Solar Study.

"Representative". With respect to any Person, any officer, director, employee, principal, attorney-in-fact, agent, or other representative of such Person.

"Seller". \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

"Seller Damages". The term shall have the meaning set forth in Section 9.4.1.

"Seller Documents". The term shall have the meaning set forth in Section 6.1.

"Seller Indemnitees". The term shall have the meaning set forth in Section 9.4.1.

"Seller’s Knowledge". The actual and current knowledge, after reasonable inquiry, of any of the following Persons: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

"Solar Study". That certain PVSYST report prepared by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_\_\_ with respect to the Property, a copy of which was previously provided to Purchaser, as such Solar Study may be revised and redelivered to Purchaser pursuant to Section 5.3.

"Survey". The ALTA-ACSM survey to be provided by Seller for the Property, which survey shall (i) be prepared by a surveyor reasonably acceptable to Seller and Purchaser, (ii) be prepared in conformance with the Minimum Standard Detail Requirements adopted in 2011 by the American Land Title Association, the American Congress on Surveying and Mapping, and the National Society of Professional Surveyors, (iii) be certified to Purchaser as provided in such Minimum Standard Detail Requirements, (iv) certify (in addition to the foregoing certifications) that all access and other roads within the Property, if any, are public, (v) contain Table A Optional Surveyor Responsibilities and Specifications Nos. 2, 3, 4, 8, 11, 14 and 16, and (vi) show: (a) an overlay of the proposed Facilities on the Property; (b) the tax assessor number(s) for each parcel of the Property; and (c) the boundaries of each parcel of the Property. Notwithstanding the foregoing, the Survey shall not be required to show any third party improvements except for those within 1,000 feet of the Facilities (or in the case of the electrical collection system, within 100 feet on both sides of the centerline).

"System Impact Study". A study prepared by PacTrans regarding the potential impacts and costs of connecting the Project to the transmission grid.

"Taxes". All federal, state, local, foreign and other net income, gross income, estimated, gross receipts, sales, use, ad valorem, transfer, franchise, profits, license, lease, service, service use, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property taxes and assessments, windfall profits, value added, commercial rent, customs duties, capital gain, social security, royalty, documentary or other taxes, fees, assessments, duties or charges of any kind whatever, together with any interest and any penalties, additions to tax or additional amounts with respect thereto, and the term "Tax" means any one of the foregoing Taxes.

"Third-Party Claim". The term shall have the meaning set forth in Section 9.7.1.

"Threshold Amount". The term shall have the meaning set forth in Section 9.5.1.

"Title Abstracts". Either a full abstract, title report or pro forma policy showing all recorded Encumbrances for the Property and including a copy of all underlying documents.

"Title Company". The term shall have the meaning set forth in Section 3.4.

"Update Certificates". The term shall have the meaning set forth in Section 5.4.

"Warranty Rights". All warranties regarding the Project and the Facilities that were made for the benefit of Seller in the EPC Agreement and any subcontracts thereunder.

"Wetlands Study". The Wetlands Study with respect to the Property prepared for Seller by \_\_\_\_\_\_\_\_\_\_\_dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a copy of which was previously provided to Purchaser, as such Wetlands Study may be revised and redelivered to Purchaser pursuant to Section 5.3.

## Rules of Interpretation.

Unless otherwise expressly provided or unless required by the context in which any term appears:

(a) capitalized terms used in this Agreement have the meanings specified in this Article;

(b) the singular shall include the plural and the plural shall include the singular;

(c) references to "Articles," "Sections," "Schedules," or "Exhibits" (if any) shall be to articles, sections, schedules or exhibits (if any) of this Agreement;

(d) all references to a particular entity shall include a reference to such entity’s successors and permitted assigns but, if applicable, only if such successors and assigns are permitted by this Agreement;

(e) the words "herein," "hereof" and "hereunder" shall refer to this Agreement as a whole and not to any particular section or subsection of this Agreement;

(f) all accounting terms not specifically defined herein shall be construed in accordance with generally accepted accounting principles applicable in the United States of America as of the Effective Date, consistently applied;

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

(h) references to any agreement, document or instrument shall mean a reference to such agreement, document or instrument as the same may be amended, modified, supplemented or replaced from time to time;

(i) the use of the word "including" in this Agreement to refer to specific examples shall be construed to mean "including, without limitation" or "including but not limited to" and shall not be construed to mean that the examples given are an exclusive list of the topics covered;

(j) relative to the determination of any period of time, "from" means "including and after," "to" means "to but excluding" and "through" means "through and including"; and

(k)  references to applicable Laws shall mean a reference to such applicable Laws as the same may be amended, modified, supplemented or restated and be in effect from time to time, including rules and regulations promulgated thereunder.

The Parties collectively have prepared this Agreement, and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this Agreement or any part hereof.

# PURCHASE AND SALE OF ACQUIRED ASSETS

## Purchase and Sale of Acquired Assets. Upon the terms and subject to the conditions set forth in this Agreement, on the Closing Date, Seller shall sell, convey, transfer, assign, and deliver to Purchaser, and Purchaser shall purchase from Seller, all of the Acquired Assets, which Acquired Assets shall be sold, conveyed, transferred, assigned and delivered to Purchaser for the consideration specified in Section 2.2 below.

## Purchase Price; Adjustment; Allocation.

### Purchase Price. Purchaser shall pay to Seller pursuant to this Agreement, by wire transfer of immediately available funds, a total purchase price of [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_AND NO/100THS DOLLARS (the "Purchase Price"], at Closing without interest.

### Adjustment of Purchase Price. The Purchase Price is based upon construction and delivery of a completed and functioning Project pursuant to the specific materials list, plans and specifications described in the EPC Agreement as of the Effective Date (collectively, the "Approved Plans"). If Purchaser requests or approves any changes to the design, construction or construction schedule of the Project after the Effective Date that increase or decrease the overall cost to complete the Project or if Purchaser exercises any rights pursuant to the EPC Consent and incurs costs as a result of the exercise of such rights, the Purchase Price shall increase or decrease, as applicable, by an amount equal to such costs, without markup. Further, to the extent Seller actually collects any liquidated damages from Contractor pursuant to the EPC Agreement (i) prior to Closing, such sums shall be a credit against the Purchase Price at Closing in favor of Purchaser, and (ii) at or after Closing, such sums shall be promptly remitted to Purchaser.

### Allocation of Purchase Price. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of the Purchase Price shall be allocated to the Property.

## Purchaser's Due Diligence.

### Reports and Other Information. Seller represents that it has delivered to Purchaser all information in Seller's possession with respect to the Acquired Assets and all the Reports in final form, and Purchaser acknowledges receipt thereof.

### Condition of Title. Purchaser acknowledges that, prior to execution of this Agreement, it has had the opportunity to review the condition of title to the Property and it has accepted all matters of record title listed on the attached Schedule 2.3.2.

## Closing. The consummation of the transactions contemplated by this Agreement (the "Closing") shall take place at the offices of Purchaser in Portland, Oregon, at 10:00 a.m., local time, on the third Business Day following the date on which all of the conditions to each Party’s obligations set forth in this Agreement have been satisfied or waived, or at such other place or time as the Parties may agree in writing. The date and time at which the Closing actually occurs is hereinafter referred to as the "Closing Date."

## Closing Costs.

### Prorations. All property Taxes, rent, insurance premiums and other costs and expenses relating to the ownership of the Property shall be prorated between Seller and Purchaser as of the Closing Date, so that Seller pays the prorated amounts for the period of time prior to the Closing Date, and Purchaser pays the prorated amounts from and after the Closing Date. Seller shall have the sole responsibility to pay any and all past-due amounts prior to the Closing Date.

### Transfer Taxes. Seller shall be responsible for paying any transfer taxes and any sales, use or other Taxes imposed on Seller by applicable Law by reason of the transfer of the Acquired Assets to Purchaser as provided herein and any deficiency, interest, penalty or addition asserted with respect thereto, and Purchaser shall be responsible for paying any transfer taxes and any sales, use or other Taxes imposed on Purchaser by applicable Law by reason of the transfer of the Acquired Assets to Purchaser as provided herein and any deficiency, interest, penalty or addition asserted with respect thereto.

## Assumption of Liabilities. Subject to the terms and conditions of this Agreement, Purchaser shall assume and become responsible for all of the Assumed Liabilities as of and after the Closing Date. Other than as set forth in this Agreement or the Purchaser Documents, Purchaser is not assuming and shall not assume or have any responsibility, however, with respect to any present or future debt, liability or other obligation or liability of Seller or its Affiliates not included within the definition of Assumed Liabilities.

# PURCHASER’S CONDITIONS PRECEDENT TO THE CLOSING

The obligation of Purchaser to purchase all of the Acquired Assets from Seller shall be subject to fulfillment at or prior to the Closing of each of the following conditions for the benefit of Purchaser:

## Deliveries by Seller. Upon the terms and subject to the conditions set forth in this ARTICLE 3, on or before the Closing Date Seller shall deliver or cause to be delivered to Purchaser the following:

### Assignment and Assumption Agreements. (i) two (2) original counterparts of the Assignment and Assumption Agreement in substantially the form of Exhibit C hereto (the "Assignment and Assumption Agreements"), in respect of the sale by Seller of all of its right, title and interest in the Contracts, CUP, Interconnection Agreement, Collection System Easements (only to the extent such Collection System Easements are appurtenant to the Property) and Warranty Rights to Purchaser and the assumption by Purchaser of all of the Assumed Liabilities relating thereto, each such counterpart being properly executed by an authorized Representative of Seller, and (ii) such other instruments of assignment and assumption as Purchaser and its counsel may reasonably request.

### Bills of Sale and Warranty Deeds. (i) two (2) original counterparts to the Bill of Sale in substantially the form of Exhibit D hereto (the "Bill of Sale"), each such counterpart being properly executed by an authorized representative of Seller in respect of the sale by Seller of all of its right, title and interest in the Acquired Assets, other than the Property, the Books and Records and the Reports; (ii) a special warranty deed in recordable form, properly executed and acknowledged, conveying the Property to Purchaser, such deed being properly executed by an authorized Representative of Seller; and (iii) such other instruments of transfer as Purchaser and its counsel may reasonably request.

### Guaranty. An original counterpart to the Guaranty properly executed by an authorized representative of Guarantor.

### Consents. Original executed copies of the Consents that have been obtained solely by Seller pursuant to Section 8.1, each in a form reasonably satisfactory to Purchaser; provided, however, that if requested by Seller, Purchaser shall countersign such Consents to evidence Purchaser’s assumption of the relevant Assumed Liability.

### Certificates. Such certificates of Seller’s officers and others as may be reasonably requested by Purchaser, which shall include, but not be limited to:

#### (i) A certificate executed by the appropriate Representative of Seller, certifying as of the Closing Date: (a) a true and correct copy of the limited liability company action of Seller authorizing the execution, delivery and performance of this Agreement and the other Seller Documents to be executed by it, and the consummation of the transactions contemplated hereby and thereby, (b) a true and correct copy of Seller's Corporate Documents, and (c) incumbency matters; and

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

### Tax Matters. Any document(s) that may be reasonably requested by Purchaser and required by any state taxing Authority in order to relieve Purchaser of any obligation to withhold Taxes with respect to any portion of the payments to Seller pursuant to this Agreement.

### Additional Documents. All other documents which are reasonably necessary to consummate the transactions contemplated hereby or reasonably necessary to demonstrate or evidence the delivery of the items required to be delivered under this Agreement.

## Interconnection Agreement. Seller shall have entered into an Interconnection Agreement with PacTrans to interconnect the Project to the transmission grid, which shall be assignable to Purchaser (the "Interconnection Agreement").

## Aviation Issues. Seller shall have provided Purchaser with evidence that a Form 7460-2, Notice of Actual Construction or Alteration, has been filed notifying the Federal Aviation Administration (FAA) of the maximum height of the Project.

## Title Insurance. Stewart Title Company or another title insurance company mutually acceptable to the Parties (the "Title Company") shall issue an ALTA extended coverage owner’s policy of title insurance (or a commitment to issue the same) that in each case (i) is in form and substance and contains such requirements, modifications and endorsements as Purchaser may reasonably approve, (ii) contains such additional affirmative coverage as Purchaser may reasonably request, (iii) provides coverage in the amount of the Purchase Price, (iv) insures (or commits to insure, as applicable) that Purchaser is the owner of fee title to the Property, (v) names Purchaser as the insured, (vi) is issued as of the date of Closing by Title Company, and (vii) shows as exceptions only the Permitted Liens.

## Representations, Warranties and Covenants of Seller. The representations and warranties made by Seller in ARTICLE 6 will be true and correct (determined, only for purposes of this Section 3.5, without regard to any qualifier such as “materiality” or any derivative of such terms, including the term “material” in the definition of the term “Material Adverse Impact” as used in such representations and warranties;) in all respects as of (i) the Effective Date and (ii) the Closing Date as if made on the Closing Date or, in the case of representations and warranties made as of a specified date earlier than the Closing Date, on and as of that earlier date, except if the facts and circumstances causing the failure of such representations and warranties (other than those contained in Section 6.4) to be so true and correct, individually or in the aggregate, have not had, and would not reasonably be expected to have, a Material Adverse Impact.

## Permits. The Permits listed on Schedule 6.14, including the Conditional Use Permit No. \_\_\_\_\_\_\_\_for the Project issued by \_\_\_\_\_\_ County Oregon on or about \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ shall be in full force and effect. Purchaser acknowledges the receipt, prior to or concurrently with the execution of this Agreement, of a copy of the CUP.

## Creation of Property as Legal Parcel. Seller shall have obtained all necessary Governmental Approvals, if any, to establish the Property as a legally conveyable parcel or parcels.

## Construction of the Project. Purchaser shall have determined that the Project has been constructed and commissioned as provided in the EPC Agreement or otherwise to the satisfaction of Purchaser, acting reasonably.

## Receipt of Governmental Approvals. Purchaser shall have obtained approval of the transactions contemplated by this Agreement from the Federal Energy Regulatory Commission ("FERC") under Section 203 of the Federal Power Act of 1935, as amended, and Part 33 of the FERC Regulations (18 CFR Part 33).

# SELLER’S CONDITIONS PRECEDENT TO THE CLOSING

The obligation of Seller to sell, convey, transfer, assign, and deliver to Purchaser all of the Acquired Assets shall be subject to fulfillment at or prior to the Closing of each of the following conditions for the benefit of Seller:

## Deliveries by Purchaser. Upon the terms and subject to the conditions set forth in this ARTICLE 4, on or before the Closing Date, Purchaser shall deliver, shall cause to be delivered to Seller, the following:

### Assignment and Assumption Agreement. (i) two (2) original counterparts to the Assignment and Assumption Agreement, each such counterpart being properly executed by an authorized representative of Purchaser, and (ii) such other instruments of assignment and assumption as Seller and its counsel may reasonably request.

### Consideration. The Purchase Price.

### Certificates. A certificate executed by the Secretary or Assistant Secretary of Purchaser, certifying as of the Closing Date: (a) that the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby and thereby are duly authorized by Purchaser, and (b) incumbency matters.

### Additional Documents. All other documents which are reasonably necessary to consummate the transactions contemplated hereby or reasonably necessary to demonstrate or evidence the delivery of the items, required to be delivered under this Agreement.

## Representations, Warranties and Covenants of Purchaser. Purchaser shall have performed all agreements and covenants required hereby to be performed by it prior to, on or as of the Closing Date and the representations and warranties of Purchaser set forth in ARTICLE 7 of this Agreement and in any other Purchaser Document shall be true and complete in all material respects as of the date hereof and as of the Closing as if made as of such time.

# PRE-CLOSING COVENANTS

## Pre-Closing Status Reports. From and after the Effective Date until Closing or termination of this Agreement, Seller shall provide to Purchaser a bi-weekly status report that describes all actions completed by Seller with respect to the Project, the Reports, and any other activities of Seller being performed in connection with this Agreement.

## Notice of Failure of Closing Conditions. Prior to the Closing, each Party shall give the other Party prompt written notice of any development that is reasonably likely to result in a failure of a condition to Closing.

## Modification of Reports. In the event there is a material change in any findings or conclusions of a Report previously delivered by Seller to Purchaser, Seller shall deliver an amended Report to Purchaser, revised to address such change. Purchaser shall then have the right to determine, in the exercise of Purchaser’s reasonable discretion, whether the changes in such Report reveal a Material Adverse Impact on the Project. Purchaser shall be deemed to have determined that any revised Report does not reveal a Material Adverse Impact on the Project, unless Purchaser shall have given written notice to Seller of a perceived Material Adverse Impact within ten (10) Business Days after receipt of the revised Report, in which case this condition shall be deemed not to have been met and Purchaser shall have the rights set forth in Section 10.2.3.

## Updated Schedules. At any time prior to fifteen (15) Business Days before Closing, Seller may revise and update the Schedules and provide exceptions thereto by providing a written certificate (each, an "Update Certificate") to Purchaser setting forth such updated information. At Closing, all representations and warranties shall be deemed modified by all such Update Certificates. Upon receipt of any Update Certificate, Purchaser shall have ten (10) Business Days from receipt of the notice of the Update Certificates to determine whether such Update Certificate discloses a Material Adverse Impact and to notify Seller in writing of such determination, in which case Purchaser shall have the rights set forth in Section 10.2.3. If Purchaser does not so notify Seller, then Purchaser shall be deemed to have determined that the Update Certificate does not disclose a Material Adverse Impact.

## Transfer of Preliminary Certificate. Purchaser shall assist and cooperate with Seller as reasonably necessary to affect the transfer of the BETC Preliminary Certificate, if any, into the name of Purchaser or its designee, as described in Oregon Administrative Rule 330-090-0130(6).

# REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Purchaser as follows. Such representations and warranties are, unless expressly stated otherwise, made as of Effective Date and the Closing Date, and are subject to Seller’s right to update the Schedules and thereby qualify the affected representations and warranties.

## Organization. Seller is a limited liability company duly formed, validly existing and in good standing under the Laws of the State of Oregon.

## Authorization. Seller has all requisite power and authority to own or lease the Property and to carry on its business as now conducted and as proposed to be conducted, to execute and deliver this Agreement, and each other agreement, document or instrument to be executed by it in connection herewith (collectively, the "Seller Documents") and to perform the obligations hereunder and thereunder. Neither Seller’s interest in any of the Acquired Assets nor Seller’s performance of its obligations under Seller Documents requires any qualification, licensing or approval by any Authority that has not previously been obtained

## Corporate Documents. Seller has made available to Purchaser true and complete copies of its Corporate Documents. Seller’s Corporate Documents are in full force and effect. Seller is not in violation of its Corporate Documents in any manner that could have a Material Adverse Impact on the Project or on the completion of the transactions contemplated by this Agreement or by the Seller Documents.

## Right and Title to Acquired Assets.

### At Closing, Seller will have good and marketable title to all of the Acquired Assets.

### The sale of the Acquired Assets to Purchaser hereunder will transfer title to Purchaser free and clear of all Encumbrances, except for Permitted Liens.

### There exist no rights or interests of any third party relating to the Acquired Assets that are not expressly contemplated by Seller Documents or this Agreement.

### Seller has the full right, power and authority to transfer and deliver to Purchaser all right, title and interest in the Acquired Assets.

## Authorization and Enforceability. Seller has taken all action necessary to execute and deliver this Agreement and the other Seller Documents, as applicable, to consummate the transactions contemplated hereby and thereby and to perform its obligations hereunder and thereunder, and except as described in the Schedules to this Agreement no other action or proceeding on the part of Seller is necessary to authorize this Agreement and the other Seller Documents and the transactions contemplated hereby and thereby. This Agreement and the other Seller Documents have been or, as applicable, at Closing, will have been duly executed and delivered by Seller. Assuming the due authorization, execution and delivery by Purchaser of this Agreement and of the Seller Documents by the other counterparties to such Seller Documents, this Agreement and the other Seller Documents constitute legally valid and binding obligations of Seller, enforceable against Seller in accordance with their terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting the enforcement of creditors’ rights generally and equitable principles.

## Violation; Conflicts. Neither the execution, delivery and performance by Seller of this Agreement or the other Seller Documents nor the transfer of rights and consummation of the transactions contemplated hereby or thereby will result in (a) a violation of or a conflict with any provision of Seller’s Corporate Documents; (b) a violation by Seller of any Laws, or (c) an imposition of any Encumbrance on any of the Acquired Assets.

## Consents and Approvals. Except for the Consents, no consent, approval or authorization of, permit from, declaration, filing or registration with, or notice to, any Authority, any third party payor or any other Person, is required to be made or obtained by Seller in connection with the execution, delivery, performance and validity of this Agreement and the other Seller Documents and the consummation of the transactions contemplated hereby and thereby.

## Brokers. Neither Seller nor its Affiliates has any contract, arrangement or understanding with any broker, finder, agent or other intermediary with respect to the transactions contemplated by this Agreement.

## Litigation. Other than as described in Schedule 6.9, there are no actions, suits or proceedings pending or, to Seller’s Knowledge, threatened, against or affecting the Project or any of the Acquired Assets or Seller’s transfer of rights and consummation of the transactions contemplated hereby, at law or in equity or before or by any Authority or instrumentality or before any arbitrator of any kind, and, to Seller’s Knowledge, there is no valid basis for any such action, proceeding or investigation.

## Compliance with Law. Other than as described in Schedule 6.10, Seller has not received any notification indicating any violation of, and to Seller’s Knowledge, there is no violation of, or non-compliance with, any applicable Law, license, franchise, permit, authorization or concession, as such would apply to the Acquired Assets, the Project or the transactions contemplated hereby.

## Tax Matters. Other than as set forth on Schedule 6.11: (a) there are no liens for Taxes on Acquired Assets, other than for Taxes not yet due and payable as of the Closing Date; (b) to Seller’s Knowledge, there are no pending or threatened proceedings with respect to Taxes relating to Seller or the Acquired Assets; and (c) to Seller’s Knowledge, there are no matters under discussion between Seller and any Authority with respect to Taxes relating to Seller or the Acquired Assets, and no extensions of the statute of limitations have either been requested or granted with respect to Taxes relating to Seller or the Acquired Assets.

## Creditworthiness and Credit Assurances. The Seller or its Guarantor shall at all times have a Credit Rating of at least 'BBB-' from S&P or 'Baa3-' from Moody's Investors Services, or a minimum equivalent Credit Rating if such published ratings are not available. If these minimum standards for a Credit Rating are not met by the Seller or its Guarantor, the Purchaser may request, in its sole and reasonable discretion, that the Seller post acceptable credit assurances to Purchaser. In addition, note that a financial institution providing credit assurances on behalf of the Seller must have at all times a Credit Rating of at least ‘A’ and ‘A2” from S&P and Moody’s Investors Service, respectively, and have assets (net of reserves) of at least $10,000,000,000. Should the financial institution providing credit assurances on behalf of the Bidder fail to meet these minimum requirements PacifiCorp will require credit assurances from a replacement financial institution that does meet the requirements. Upon request by Purchaser, the Seller shall provide to Purchaser its audited financial statements, (or those of its Guarantor, as applicable) prepared in accordance with generally accepted accounting principles, in order to determine a Credit Rating, as necessary.

## No Other Agreements to Sell the Acquired Assets. Seller has no legal obligation, absolute or contingent, to any other Person or any nonbinding agreement in principle, letter of intent or similar understanding with any Person to sell or effect a sale of all or any portion of the Acquired Assets or to enter into any agreement or cause the entering into of any agreement with respect to the foregoing. During the period from the Effective Date until the Closing Date, Seller will not, and will not cause or permit its Affiliates or any of their respective Representatives to, (a) negotiate, undertake or enter into, either as the proposed surviving, merged, acquiring or acquired entity, any transaction involving a merger, consolidation, business combination, purchase or disposition of all or substantially all of the Acquired Assets or any equity interest in Seller other than the transactions contemplated by this Agreement (an “Acquisition Transaction”), (b) solicit or initiate discussions, negotiations or submissions of proposals or offers in respect of an Acquisition Transaction or (c) negotiate, undertake, enter into or solicit or accept bids with respect to any Contract relating to the transmission rights of the Project or sale of the Project’s energy output.

## Contracts. Schedule 6.14 of this Agreement contains a true and complete list of all Contracts that are included in the Acquired Assets. Prior to or at Closing, Seller shall have delivered to Purchaser a correct and complete copy of each Contract listed on Schedule 6.14 of this Agreement. With respect to each Contract identified on Schedule 6.14 of this Agreement and except as expressly set forth on Schedule 6.14:

### the Contract is legal, valid, binding, and enforceable in accordance with its terms, and in full force and effect;

### the consummation of the transactions contemplated by this Agreement will not affect the legality, validity, binding nature or enforceability or force and effect of the Contract except with respect to the identity of the parties thereto as a result of the assignments and assumptions referred to in ARTICLE 3 and ARTICLE 4 above;

### no party to such Contract is in breach or default, and, to Seller’s Knowledge, no event has occurred which with notice or lapse of time would constitute a breach or default, or permit termination, modification, or acceleration, under the Contract; and

### no party has repudiated any provision of the Contract.

## Permits. At Closing, Seller shall have obtained the Permits listed on Schedule 6.14, which permits constitute all Permits necessary to develop and construct the Project. Seller does not represent or warrant that the Acquired Assets include any permits or other Governmental Approvals required to operate the Project after Closing.

## CUP. At Closing:

### the CUP is legal, valid, binding and enforceable in accordance with its terms, and in full force and effect, and any conditions of approval that, by their terms, apply before the Project is operational, have been satisfied;

### the consummation of the transactions contemplated by this Agreement will not affect the legality, validity, binding nature, enforceability or force and effect of the CUP except with respect to the identity of the parties thereto as a result of the assignments and assumptions referred to in ARTICLE 3 and ARTICLE 4 above;

### no party to the CUP is in non-compliance with the terms and conditions of the CUP, and, to Seller’s Knowledge, no event has occurred which with notice or lapse of time would constitute non-compliance with such terms and conditions; and

### no action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand is pending or, to Seller’s Knowledge, is threatened which challenges the legality, validity, or enforceability of the CUP.

## Environmental Provisions.

### Other than as set out in Schedule 6.17, during the period of Seller's ownership of the Property, or, to Seller's Knowledge, at any other time, there has not been a Release of Hazardous Material on or otherwise affecting the Property that: (i) has imposed any material release-reporting obligations on Seller under any Environmental Law; or (ii) has imposed or would, if identified to appropriate Authorities impose, any obligations on Seller under any Environmental Law to investigate, assess, monitor, clean‑up, contain, remediate, mitigate, remove, store, transport, dispose and/or treat any contamination, prepare or implement any work plans related thereto, or respond to or prepare for, any inquiry, order, hearing or other proceeding by or before any Authority with respect to any contamination.

### Except as set out in Schedule 6.17, Seller has not received any written notice of any material proceedings, action, or other claim or liability arising under any Environmental Law (including notice of potentially responsible party status under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 et seq. or any state counterpart) from any Person or Authority regarding the Property.

### Except as set forth in Schedule 6.17, to Seller's Knowledge no portion of the Property contains or has ever contained any underground storage tank, surface impoundment or similar device used for the management of wastewater, or other waste management unit dedicated to the disposal, treatment, or long-term storage (greater than 30 Business Days) of waste materials.

## Schedules. Subject to modification pursuant to Section 5.4, the Schedules to this Agreement are true and complete.

## Reports. Except as set forth in the Schedules hereto, and subject to modification pursuant to Section 5.3, to Seller’s Knowledge there has been no change in circumstances in any material matters described in a Report that could have a Material Adverse Impact on the operation of the Facilities.

## Material Misstatements or Omissions. Subject to Seller’s rights to revise the Reports and Schedules prior to the Closing Date under Sections 5.3 and 5.4, each representation and warranty set forth in this ARTICLE 6 is made as of, and is and will be true and complete as of, the Closing Date. No representation or warranty by Seller in this Agreement or any document furnished or to be furnished to Purchaser pursuant hereto, or in connection with the transactions contemplated hereby, contains or will contain, as of the Closing Date, any untrue statement of a material fact, or omits or will omit to state any material fact necessary to make the statements or facts contained therein, as of the Closing Date, not misleading.

# REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser hereby represents and warrants to Seller as follows. Such representations and warranties are, unless expressly stated otherwise, made as of the Effective Date and the Closing Date.

## Organization. Purchaser is a corporation validly existing and in good standing under the Laws of the State of Oregon.

## Authorization. Purchaser has all requisite power and authority to execute and deliver this Agreement and each other agreement, document or instrument to be executed by it in connection herewith (collectively, the "Purchaser Documents") and to perform its obligations hereunder and thereunder. The execution, delivery and performance of this Agreement and the other Purchaser Documents and the consummation of the transactions contemplated hereby by Purchaser have been duly authorized by all necessary action. This Agreement and the other Purchaser Documents to which Purchaser is a party have been duly executed and delivered by Purchaser. Assuming the due authorization, execution and delivery by Seller of this Agreement and of the Purchaser Documents by the other counterparties to such Purchaser Documents, this Agreement and the other Purchaser Documents to which Purchaser is a party constitute legally valid and binding obligations of Purchaser, enforceable against it in accordance with the respective terms thereof, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting the enforcement of creditors’ rights generally and equitable principles.

## No Conflict or Violation. Neither the execution, delivery and performance of this Agreement or the other Purchaser Documents nor the transfer of rights and consummation of the transactions contemplated hereby or thereby will result in a violation of or a conflict with any provision of Purchaser’s Corporate Documents.

## Consents and Approvals. Other than as set out in Schedule 7.4, no consent, approval or authorization of, permit from, declaration, filing or registration with, or notice to, any Authority, any third party payor or any other Person, is required to be made or obtained by Purchaser in connection with the execution, delivery, performance and validity of this Agreement and the other Purchaser Documents and the consummation of the transactions contemplated hereby and thereby.

## Brokers. Purchaser does not have any contract, arrangement or understanding with any broker, finder, agent or other intermediary with respect to the transactions contemplated by this Agreement.

## Litigation. There are no actions, suits or proceedings pending or, to Purchaser’s Knowledge, threatened, that would prevent Purchaser from performing under this Agreement, at law or in equity or before or by any Authority or instrumentality or before any arbitrator of any kind, and, to Purchaser’s Knowledge, there is no valid basis for any such action, proceeding or investigation.

# CERTAIN COVENANTS

Each of the following covenants are made by Purchaser or Seller, as applicable.

## Consents and Reasonable Efforts. Purchaser and Seller shall use their respective commercially reasonable efforts to obtain, or to assist in obtaining, all consents, approvals, transfers, permissions, waivers, orders, reissuances and authorizations of (and promptly make and diligently prosecute all necessary filings or registrations with) all Authorities and other third parties which are required to be obtained or made by them in connection with the consummation of the transactions contemplated by this Agreement or in connection with the Project (collectively, the "Consents"). As of the Effective Date, the Parties are aware of the need to obtain the Consents listed in Schedule 7.4 and Schedule 8.1.

## Confidentiality Generally. Each Party shall maintain in the strictest confidence, for the benefit of the other Party all the terms and conditions of this Agreement and all information identified by the disclosing Party as confidential, unless such information either: (i) is in the public domain by reason of prior publication through no act or omission of the disclosing Party or its employees or agents; or (ii) was already known to the disclosing Party at the time of disclosure and which the disclosing Party is free to use or disclose without breach of any obligation to any person or entity ("Confidential Information"). Neither Party shall publish or otherwise disclose Confidential Information to others, or permit its use by others for their benefit or to the detriment of the other Party. Notwithstanding the foregoing, the Parties may disclose Confidential Information to their respective lenders, attorneys, accountants and other personal financial advisors solely for use in connection with their representation of such Party in connection with this Agreement; provided that in making such disclosure, the disclosing Party shall advise the party receiving the information of the confidentiality of the information. The Parties may also disclose Confidential Information pursuant to applicable Laws requiring such disclosure, provided that the disclosing Party shall give the other Party reasonable advance notice of the required disclosure and will cooperate with the other Party in limiting such disclosure and in obtaining protective orders where appropriate. The provisions of this Section 8.2 shall survive the Closing, or the termination or expiration of this Agreement, for a period of two (2) years.

## Confidentiality Regarding Tax Matters. Notwithstanding anything to the contrary in this Agreement or in any other written or oral understanding or agreement to which the Parties are parties or by which they are bound, each Party to this Agreement has been and is permitted to disclose the federal tax treatment and federal tax structure of the purchase of the Acquired Assets. This permission to disclose includes the ability of each Party to this Agreement to consult, without limitation of any kind, any tax advisor (including a tax advisor independent from all other entities involved in the Transaction) regarding the federal tax treatment or federal tax structure of the Transaction; provided, however, that this Section 8.3 shall not be deemed to authorize the disclosure of any information relating to the federal tax treatment or federal tax structure of the purchase of the Acquired Assets to the extent that such information is required to be kept confidential pursuant to, or in order to comply with, any applicable federal or state securities Laws. This provision is intended to qualify for the exception from confidential transaction status set forth in Section 1.6011-4(b)(3)(ii)(B) of the Treasury Regulations and shall be interpreted to authorize disclosure only to the extent necessary to so qualify.

## Access to Properties, Information and Employees. Through the Closing Date, Seller will afford to Purchaser and its employees and other representatives full and free access to the Acquired Assets and related records during normal working hours. Purchaser shall indemnify and hold Seller harmless from and against any property damage and personal liability arising out of entry onto the Property by Purchaser or its Representatives other than reasonable wear and tear, including any damage to the land, and will promptly restore and repair any damage caused by Purchaser or its Representatives.

# ACTIONS BY SELLER AND PURCHASER AFTER THE CLOSING DATE

## Records. Seller and Purchaser each will cooperate with and make available to the other Party, during normal business hours after reasonable advance notice, all books and records with respect to the Project retained and remaining in existence after the Closing Date that are necessary in connection with any Tax inquiry, audit, investigation or dispute, any litigation or investigation or any other matter requiring any such books and records.  The Party requesting any such books and records shall bear all of the out‑of‑pocket costs and expenses (including attorneys’ fees) reasonably incurred in connection with providing such books and records.

## Survival of Representations and Warranties and Covenants.

### The representations and warranties in this Agreement shall survive the Closing Date and shall terminate at the close of business twenty-four (24) months following the Closing Date (the “Expiration Date”); provided that the Expiration Date for (i) the representations and warranties made under Section 6.17 (Environmental Provisions) shall be the date that is three (3) years following the Closing Date; (ii) the representations and warranties made under Sections 6.1 (Organization), 6.2 (Authorization) and 6.5 (Authorization and Enforceability) shall be the date that is ten (10) years following the Closing, and (iv) the representations and warranties made under Section 6.11 (Tax Matters), obligations under Section 2.5.1 (Closing Costs) and claims for fraud by Seller shall survive the Closing Date until the expiration of the statute of limitations; (iv) the representations and warranties made under Sections 7.1 (Organization) and 7.2 (Authorization) shall be the date that is ten (10) years following the Closing; and claims for fraud by Purchaser shall survive the Closing Date until the expiration of the statute of limitations.

### Each of the covenants and other agreements of the Parties contained in this Agreement that require performance on or before the Closing Date shall not survive the Closing. The covenants and agreements contained herein requiring performance after the Closing Date shall survive the Closing in accordance with their terms.

## Indemnification of the Purchaser.

### Subject to the provision of Section 9.2 above and the other provisions of this Article 9, Seller shall, from and after the Closing Date, indemnify Purchaser, its Affiliates and each of their officers, directors, employees, shareholders, partners, agents, successors and assigns (each, a “Purchaser Indemnitee” and collectively, the “Purchaser Indemnitees”) against and hold them harmless, without duplication, from and against any and all costs, losses, liabilities (including liabilities arising under principles of strict or joint and several liability), damages, lawsuits, deficiencies, claims and expenses arising out of third-party claims, including interest, penalties, additions, travel expenses, wages allocable to loss of employee time, reasonable attorneys' fees and all amounts paid in investigation, defense or settlement of any of the foregoing (collectively, the "Purchaser Damages") suffered, sustained or incurred by any such Purchaser Indemnitee arising from, based upon, attributable to or resulting from:

#### any inaccuracy in any representation or warranty made by Seller contained in this Agreement; or

#### any breach of any covenant of Seller under this Agreement.

### Notwithstanding anything in this Agreement to the contrary, for purposes of this Section 9.3, the amount of Purchaser Damages arising from, based upon, attributable to or resulting from an inaccuracy in a representation, warranty or covenant made by Seller in this Agreement shall be determined without regard to any limitation or qualification as to materiality or Material Adverse Effect; however, the existence or occurrence of an inaccuracy in a representation, warranty or covenant made by Seller in this Agreement shall be determined after giving effect to such limitations and qualifications.

## Indemnification of the Seller.

### Subject to the provisions of Section 9.2 above and the other provisions of this Article 9, Purchaser shall, from and after the Closing Date, indemnify Seller and its Affiliates, and each of their respective officers, directors, employees, shareholders, partners, agents, successors and assigns (each, a “Seller Indemnitee” and collectively, the “Seller Indemnitees”) against and hold them harmless, without duplication, from and against any and all costs, losses, liabilities (including liabilities arising under principles of strict or joint and several liability), damages, lawsuits, deficiencies, claims and expenses arising out of third-party claims, including interest, penalties, additions, travel expenses, wages allocable to loss of employee time, reasonable attorneys' fees and all amounts paid in investigation, defense or settlement of any of the foregoing (collectively, the "Seller Damages") suffered, sustained or incurred by a Seller Indemnitee arising from, based upon, attributable to or resulting from:

#### (i) any inaccuracy in any representation or warranty made by Purchaser contained in this Agreement;

#### (ii) any breach of any covenant of Purchaser under this Agreement; or

#### (iii) any Assumed Liability.

### Notwithstanding anything in this Agreement to the contrary, for purposes of this Section 9.4, the amount of Seller Damages arising from, based upon, attributable to or resulting from an inaccuracy in a representation, warranty or covenant made by Purchaser in this Agreement shall be determined without regard to any limitation or qualification as to materiality or Material Adverse Effect; however, the existence or occurrence of an inaccuracy in a representation, warranty or covenant made by Purchaser in this Agreement shall be determined after giving effect to such limitations and qualifications.

## Limitations on Indemnification and Other Indemnification Matters.

### Notwithstanding anything herein to the contrary:

(i) Seller shall not have any liability under Section 9.3 until the aggregate of all Purchaser Damages relating thereto for which Seller would, but for this Section 9.5, be liable under Section 9.3, exceeds an amount equal to at least Fifty Thousand Dollars (US$50,000) (the “Threshold Amount”), provided, however that, once the Purchaser Damages equal or exceed the Threshold Amount, Seller shall indemnify Purchaser from and against the total amount of such Purchaser Damages; and further provided that individual claims of $1,500 or less will not be included or aggregated for purposes of calculating the Threshold Amount or the amount of any losses in excess of the Threshold Amount; and

#### (ii) Except for claims for indemnification based on fraud, Seller shall not have any liability under this Agreement above \_\_\_\_\_% of the Purchase Price (the “Cap”) in the event that the aggregate of all Purchaser Damages for which Seller would, but for this Section 9.5, be liable under Section 9.3, exceeds the Cap.

### Notwithstanding anything herein to the contrary:

#### (i) Purchaser shall not have any liability under Section 9.4 until the aggregate of all Seller Damages relating thereto for which Purchaser would, but for this Section 9.5, be liable under Section 9.4, exceeds an amount equal to the Threshold Amount, provided, however that, once the Seller Damages equal or exceed the Threshold Amount, Purchaser shall indemnify the Seller from and against the total amount of such Seller Damages; and further provided that individual claims of $1,500 or less will not be included or aggregated for purposes of calculating the Threshold Amount or the amount of any losses in excess of the Threshold Amount; and

#### (ii) Except for claims for indemnification based on fraud, Purchaser shall not have any liability under this Agreement above the Cap in the event that the aggregate of all Seller Damages for which Purchaser would, but for this Section 9.5, be liable under Section 9.4, exceeds the Cap.

### Notwithstanding anything contained herein to the contrary, (i) any obligations under Sections 9.3 or 9.4 shall not terminate at the applicable Expiration Date with respect to any such claims for indemnification for which an Indemnified Party has given notice (stating in reasonable detail the basis of the claim for indemnification) to the Indemnitor in accordance with Section 9.6 before the applicable Expiration Date, (ii) subject to Section 9.5, no claim for a breach of a representation or warranty may be made or brought by any Party hereto after the expiration of the applicable Expiration Date, (iii) with respect to a breach of a covenant contained in this Agreement that occurred prior to the expiration of such covenant, a Party must bring a claim for such breach within ninety (90) days after the expiration of such covenant if the Party has Knowledge of the breach at the time the covenant expires and otherwise within two (2) years after the expiration of such covenant.

### The amount of any Purchaser Damages subject to indemnification by the Seller hereunder shall be calculated: (i) net of any amounts that may be recovered by any Purchaser Indemnitee under insurance policies or other collateral sources (such as contractual indemnities of any Person which are contained outside this Agreement); and (ii) net of any Tax benefit actually recognized by any Purchaser Indemnitee(s) as a direct result of the incurrence or payment of any such Purchaser Damages.

### Purchaser and the Seller shall take and shall cause each of their respective Affiliates to take all reasonable steps to mitigate any Purchaser or Seller Damages upon becoming aware of any event which would reasonably be expected to, or does, give rise thereto, including incurring costs only to the minimum extent necessary to remedy the breach which gives rise to Purchaser or Seller Damages. In addition, Purchaser and the Seller shall not be entitled to indemnification hereunder unless they, and their respective Affiliates, shall have used their reasonable best efforts to mitigate any Purchaser or Seller Damages relating to the claims for which Purchaser or the Seller are seeking indemnification.

### For the avoidance of doubt: (i) a claim by Seller for the payment of the Purchase Price; and (ii) a claim by a party (or an assignee of a party) for damages under the EPC Agreement; shall be claims for direct damages and shall not constitute claims for indemnification subject to this Article 9, and will not be included in any of the Threshold Amounts or the Cap, as applicable.

## Notice of Claim.

### Any Party seeking indemnification hereunder (the “Indemnified Party”) shall, within the time period specified in Section 9.5, give to the Party obligated to provide indemnification to such Indemnified Party (the “Indemnitor”) a written notice (a “Claim Notice”) describing in reasonable detail the facts giving rise to any claim for indemnification hereunder and shall include in such Claim Notice, on a without prejudice basis, a statement or estimate of the amount of such claim, if known and quantifiable, which statement or estimate shall not be binding and may be revised, amended or modified without further notice to the Indemnitor and shall also include a reference to the provision of this Agreement upon which such claim is based; provided, that failure to give such Claim Notice shall not relieve the Indemnitor of its obligations hereunder except to the extent it shall have materially prejudiced Indemnitor's ability to utilize rights and defenses otherwise available to Indemnitor with respect to such claim and provided the applicable Expiration Date shall not have passed.

### After the giving of any Claim Notice pursuant hereto, if the Indemnitor disputes the claim for indemnification within thirty (30) days of the Claim Notice, the amount of indemnification to which an Indemnified Party shall be entitled under this Article 9 shall be determined: (i) by the written agreement between the Indemnified Party and the Indemnitor; (ii) by a finally judicially determined Order; or (iii) by any other means to which the Indemnified Party and the Indemnitor shall agree. The Order shall be deemed final when the time for appeal, if any, shall have expired and no appeal shall have been taken or when all appeals taken shall have been finally determined. Following such determination of the amount of indemnification or if the Indemnitor does not dispute the claim for indemnification, the Indemnified Party shall forward to the Indemnitor written notice of any such sums due and owing by the Indemnitor and the Indemnitor shall pay all of such sums so due and owing within thirty (30) days, provided that if the Indemnitor is the Seller and such sums due and owing by the Indemnitor are not received by the Indemnified Party within thirty (30) days of such written notice, then Seller’s Guarantor shall promptly pay such sums, but in no event later than five (5) days following such thirty (30) day period, by wire transfer of immediately available funds.

## Third Person or Governmental Entity Claims.

### A Claim Notice in respect of any Legal Proceeding by a Person who is neither a Party nor an Affiliate of a Party or Governmental Entity as to which indemnification will be sought (each a "Third Party Claim") shall be given promptly after receipt by the Indemnified Party of the complaint relating to such Legal Proceeding, commencement of such Legal Proceeding or notice of such Legal Proceeding being commenced; provided, that failure to give such notice of such Third Party Claim shall not relieve the Indemnitor of its obligations hereunder except to the extent it shall have materially prejudiced Indemnitor's ability to utilize rights and defenses otherwise available to Indemnitor with respect to such Legal Proceeding and provided the applicable Expiration Date shall not have passed.

### The Indemnitor shall be entitled to participate, upon written notice delivered to the Indemnified Party within thirty (30) days of the receipt of the Indemnified Party’s Claim Notice, in the defense of any Third Party Claim at such Indemnitor’s expense. Indemnitor, at its option, shall be entitled to conduct and control, through reputable counsel of its choosing who is reasonably satisfactory to the Indemnified Party, the defense, compromise or settlement (subject to the requirements set forth below) of any Third Party Claim; provided, however, the Indemnitor shall not be entitled to conduct and control the defense thereof (and the Indemnitor shall be liable for the reasonable fees and expenses of counsel incurred by the Indemnified Party in defending such Third Party Claim) if such claim, based on the remedy sought, would, if successful, reasonably be expected to result in criminal liability of the Indemnified Party, or if such claim seeks injunctive or other equitable relief against the Indemnified Party. The Indemnitor shall be liable for the fees and expenses of counsel employed by the Indemnified Party for any period during which the Indemnitor has not assumed the defense thereof. The Indemnified Party may participate, through counsel chosen by it and at its own expense, in the defense of any Third Party Claim as to which the Indemnitor has elected to conduct and control the defense, compromise or settlement thereof; provided thatif the Indemnified Party reasonably determines that the interests of Indemnitor and the Indemnified Party are in material conflict with one another such that the Indemnitor could not adequately represent the interests of the Indemnified Party, then the Indemnitor shall also pay the reasonable fees and expenses of one separate counsel (and one local counsel) of the Indemnified Party in connection with such claim during such time as such a conflict exists. In the event, however, that the Indemnitor declines or does not elect to conduct and control the defense, compromise or settlement of any Third Party Claim or to employ reputable counsel reasonably satisfactory to the Indemnified Party, in either case within such thirty (30) day period, or if the Indemnitor is not entitled to assume the defense of such claim in accordance with this Section 9.7, then the Indemnitor shall pay the reasonable fees and expenses of counsel for the Indemnified Party as incurred to the extent the Indemnitor is obligated to indemnify the Indemnified Party for such fees and expenses pursuant to Section 9.3 or Section 9.4, as applicable; provided, however, that the Indemnitor shall not be required to pay the fees and disbursements of more than one firm (and one local counsel) for all Indemnified Parties in any claim. The Indemnitor or the Indemnified Party (as the case may be) shall at all times use commercially reasonable efforts to keep the Indemnitor or Indemnified Party (as the case may be) reasonably apprised of the status of the defense of any matter the defense of which it is maintaining and to cooperate in good faith with each other with respect to the defense or contest (including any counterclaim) of any such matter and shall furnish such records and other information as may be reasonably requested by the Indemnitor or Indemnified Party (as the case may be) in connection therewith.

### Neither the Indemnitor nor the Indemnified Party, as the case may be, shall pay, compromise, settle or consent to the entry of any judgment with respect to which indemnification is being sought herein without the prior written consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed); provided, however, that such consent shall not be required if (i) the settlement agreement contains a complete and unconditional general release by the third party asserting the claim to all Indemnified Parties affected by the claim and (ii) the settlement agreement requires only the payment of money damages and does not contain any sanction or restriction upon the conduct of any business by the Indemnified Party or its Affiliates. Notwithstanding the foregoing, if Indemnitor is entitled to conduct and control the defense of any particular claim pursuant to this Section 9.7, but elects not to do so, then Indemnitor shall not unreasonably withhold its consent to any settlement or compromise with respect to such claim.

## Purchase Price Adjustment. Unless otherwise agreed by the Seller and Purchaser, any indemnification payment made by Purchaser or the Seller under this Article 9 shall be treated as an adjustment to the Purchase Price.

## Exclusive Remedy. From and after the Closing, the exclusive remedy of the Purchaser Indemnified Persons in connection with this Agreement and the transactions contemplated hereby (other than the excluded assets and liabilities listed on Schedule 1.1 and Schedule 2.1, respectively, the EPC Consent and the EPC Agreement) (whether under this Agreement or arising under common law or any other Law) shall be as provided in this Article 9.

## Limitation of Liability. NEITHER PARTY SHALL BE LIABLE FOR ANY LOST OR PROSPECTIVE PROFITS AND IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY OTHER SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, INCIDENTAL OR INDIRECT LOSSES OR DAMAGES (IN TORT, CONTRACT OR OTHERWISE) UNDER OR IN RESPECT TO THIS AGREEMENT OR FOR ANY FAILURE OF PERFORMANCE RELATED HERETO, HOWSOEVER CAUSED.

## Further Assurances.

### Each of the Parties hereto shall use commercially reasonable efforts to take all action and to do all things necessary, proper or advisable to consummate and make effective the transactions contemplated by this Agreement, including the prompt execution and delivery, or causing to be executed and delivered as applicable, such other documents, instruments of transfer or assignment, estoppels, files, books and records and do all such further acts and things as may be reasonably requested by the other Party to carry out or evidence the terms and provisions of this Agreement. Seller shall reasonably cooperate in the preparation and audit of any financial statements required to be filed with any Person, including by giving Purchaser and its independent certified public accountants reasonable access to work papers and other records, documents and written information of Seller and Seller’s independent certified public accountants used to prepare or audit, or reasonably related to the preparation or audit of, all financial statements of Seller to the extent reasonably required for the preparation of such financial statements.

### Each Party hereto shall furnish or cause to be furnished to each other, upon request, as promptly as practicable, such information and assistance (including access to books and records) relating to the Project as is reasonably necessary for the preparation of any return with respect to Taxes, claim for refund or audit, and the prosecution or defense of any claim, suit or proceeding relating to any proposed adjustment with respect to Taxes.

# DEFAULT AND TERMINATION

## Default.

### Event of Default. Either Party shall be in default of this Agreement if there has been a material violation or breach by such Party of its agreements, covenants, representations or warranties contained in this Agreement which (a) is not susceptible to cure, or (b) is susceptible to cure but continues unremedied for a period of ten (10) Business Days from the date on which notice of such material violation or breach shall have been received by such other Party, provided that if such cure reasonably requires more than ten (10) Business Days, then termination shall not be effective so long as the breaching Party commences cure within such ten (10) Business Day period and thereafter pursues cure to completion with commercially reasonable diligence for a period not to exceed an additional 10 Business Days (an "Event of Default").

### Remedies. Upon the occurrence of an Event of Default, and except as expressly limited by this Agreement, the non-breaching Party shall be entitled to damages, equitable relief, injunctive relief and/or specific performance, as well as all other rights and remedies available at law or in equity.

## Termination. At any time prior to the Closing, and without limiting the generality of Section 10.1.2, this Agreement may be terminated and the transactions contemplated hereby abandoned:

### By Purchaser, if there is an uncured Event of Default by Seller;

### By Seller, if there is an uncured Event of Default by Purchaser;

### By Purchaser, if Purchaser has timely notified Seller that an updated Report or an Update Certificate discloses a Material Adverse Impact on the Project pursuant to Sections 5.3 or 5.4, and Seller shall not have eliminated the Material Adverse Impact to Purchaser's reasonable satisfaction by the earlier of (i) thirty (30) Business Days after receipt of Purchaser's notice, or (ii) the Closing Date; provided that if the Closing occurs without Purchaser terminating this Agreement as provided in this Section 10.2.3, then any right to object to a Material Adverse Impact is waived;

### By Seller or Purchaser, upon three (3) business days prior written notice, if Contractor has not been issued the Construction Notice to Proceed on or before the Latest Notice to Proceed Date (as those terms are defined in the EPC Agreement), or if Purchaser has not obtained the approvals listed on Schedule 7.4 on or before the Latest Notice to Proceed Date, unless prior to the effective date of termination pursuant to this Section 10.2.4, Seller, Purchaser and Contractor all agree to extend the Latest Notice to Proceed Date and amend any other terms of the EPC Agreement affected thereby;

### By Purchaser, upon three (3) business days prior written notice, on or before the Latest Notice to Proceed Date but not thereafter, if the Oregon Department of Energy has not approved, in form and substance acceptable to Purchaser, the transfer of the BETC Preliminary Certificate for the Project, specifically limited to the Project’s specifications and the Project’s certified eligible cost, unless prior to the effective date of termination pursuant to this Section 10.2.5 Seller, Purchaser and Contractor all agree to extend the Latest Notice to Proceed Date and amend any other terms of the EPC Agreement affected thereby; or

### By mutual written consent of the Parties.

## Effect of Termination. Upon termination of this Agreement for any of the reasons specified in Section 10.2, that portion of the Deposit, if any, unspent by PacTrans as of the date PacTrans is notified of the termination of this Agreement shall be the property of Purchaser; however, Seller shall have no responsibility for causing the funds to be delivered by PacTrans to Purchaser. Nothing in this Section 10.3 shall limit either Party's other available remedies, if any, upon termination.

## Failure of Conditions Precedent; Waiver. If the transactions contemplated by this Agreement fail to close due to the failure of any condition precedent set forth in this Agreement, the Party benefiting from such condition precedent may waive the requirement of compliance with such condition and consummate the transactions contemplated hereby without any adjustment to the Purchase Price.

# MISCELLANEOUS

## Assignment. Seller may not assign any of its rights or obligations under this Agreement. Purchaser may not assign any of its rights or obligations under this Agreement; provided, however, that upon prior notice to Seller, Purchaser may assign its rights or obligations under this Agreement to any Affiliate of Purchaser.

## Notices; Transfer of Funds. All notices, requests, demands and other communications which are required or may be given under this Agreement, including all documents delivered pursuant to this Agreement shall be in writing and shall be deemed to have been duly given when received if personally delivered; when transmitted if transmitted by telecopy, electronic or digital transmission method with proof of successful delivery; the day after it is sent, if sent for next day delivery to a domestic address by recognized overnight delivery service (e.g., Federal Express or UPS); and upon receipt, if sent by certified or registered mail, return receipt requested. In each case notice shall be sent to:

If to Seller, to:

Attention:

Facsimile:

Telephone:

with a copy to:

Attention:

Facsimile:

Telephone:

If to Purchaser, to:

PacifiCorp

825 NE Multnomah

Portland OR 97232

Attention: Contracts Administration

Facsimile: (503) 813-\_\_\_\_

Telephone: (503) 813-7034

with a copy to:

PacifiCorp Energy Legal, Attn:

Jeffery B. Erb, Esq.

825 NE Multnomah, Suite 600

Portland, OR 97232

or to such other place and with such other copies as a Party may designate as to itself by written notice to the other Party.

## Choice of Law; Consent to Jurisdiction; Service of Process.

### This Agreement shall be construed, interpreted and the rights of the Parties determined in accordance with the Laws of the State of Oregon without reference to its choice of law provisions.

### Any disputes arising pursuant to this Agreement that cannot be resolved between the Parties within fourteen (14) days after receipt by each of written notice of such dispute (specifically referencing this Section 11.3.2) shall be referred, by notice signed by each Party, to the executive level officers of each Party as their designated representatives for resolution.  If the Parties, negotiating in good faith, fail to reach an agreement within a reasonable period of time, not exceeding twenty (20) days after such referral, then the Parties agree that any and all disputes arising from, relating to or in connection with this Agreement, whether based in contract, tort or otherwise shall be submitted to the jurisdiction of the federal or state courts located in Multnomah County, Oregon as provided in Section 11.3.3.

### To the fullest extent permitted by law, each of the parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this agreement. Each party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

### The Parties hereto hereby irrevocably submit to the jurisdiction of the federal or state courts located in Multnomah County, Oregon, over any dispute arising out of or relating to this Agreement or any of the transactions contemplated hereby and each Party hereby irrevocably agrees that all claims in respect of such dispute or proceeding shall be heard and determined in such court. Each Party hereby irrevocably waives, to the fullest extent permitted by applicable Law, any objection which it may now or hereafter have to the laying of venue of any such dispute brought in such court or any defense of inconvenient forum.

## Entire Agreement; Amendments and Waivers. This Agreement and all exhibits and schedules hereto and any other written agreements entered into herewith shall constitute the entire understanding of the Parties as to the subject matter hereof and thereof and fully supersede all prior oral and written agreements and understandings between the Parties with respect to such subject matter. No supplement, modification or waiver of this Agreement shall be binding unless executed in writing by the Party to be bound thereby.  No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

## Multiple Counterparts. This Agreement may be executed in one or more counterparts (including by facsimile), each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

## Expenses. Except as otherwise specified herein, each Party hereto shall pay its own legal, accounting, out‑of‑pocket and other expenses incident to this Agreement and to any action taken by such Party in preparation for carrying this Agreement into effect.

## Invalidity. In the event that any one or more of the provisions contained in this Agreement or in any other instrument referred to herein (other than a requirement to make payments hereunder), shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by Law, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or any other such instrument.

## Titles. The titles, captions or headings of the Articles and Sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

## Burden and Benefit. This Agreement shall be binding upon and shall inure to the benefit of, the Parties hereto and their respective successors and permitted assigns. The Purchaser Indemnified Parties and Seller Indemnified Parties shall be third party beneficiaries of this Agreement and shall be entitled to indemnification, with full rights of enforcement as though each such person was a signatory to this Agreement. Except as provided in this Section 11.9, there shall be no third party beneficiaries of this Agreement.

## Cumulative Remedies. Subject to Section 9.5, Section 9.8 and Section 9.10, all rights and remedies of either Party hereto are cumulative of each other and of every other right or remedy such Party may otherwise have at law or in equity, and the exercise of one or more rights or remedies shall not prejudice or impair the concurrent or subsequent exercise of other rights or remedies.

## No Partnership or Joint Venture. The Parties hereto do not intend to create a partnership or joint venture by virtue of this Agreement. No Party shall owe any fiduciary duty to any other Party by virtue of this Agreement or any other Seller Document or Purchaser Document or otherwise.

## No Merger. This Agreement is a fully integrated complete agreement and is not merged with or extinguished by any other agreement.

## Public Announcements. Seller shall not issue any public announcement or other statement with respect to this Agreement or the transactions contemplated hereby without the prior consent, which shall not be unreasonably withheld or delayed, of Purchaser, unless required by applicable Law or order of a court of competent jurisdiction. In the event of a breach of this Section 11.13, in addition to and not in lieu of any legal or equitable remedies that may otherwise be available, Purchaser may, in its sole discretion, issue public announcements Purchaser shall deem to be appropriate in its sole discretion to supplement, correct or amplify the announcement or statement made by the Seller.

## Time of the Essence. Time is of the essence of this Agreement and each provision hereof.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed on their respective behalf, by their respective officers thereunto duly authorized, all as of the day and year first above written.

|  |  |
| --- | --- |
| PURCHASER: |  |
| PACIFICORP  By:  Name:  Title: |  |
|  |  |

|  |  |
| --- | --- |
| **SELLER:** |  |
| By:  Name:  Title: |  |

**Schedule 1.1**

**Excluded Assets**

**Schedule 2.1**

**Excluded Liabilities**

**Schedule 2.3.2**

**Approved Title Exceptions**

**Schedule 6.9**

**Seller Litigation**

**Schedule 6.10**

**Compliance with Law**

**Schedule 6.11**

**Tax Matters**

**Schedule 6.13**

**Contracts**

**Schedule 6.14**

**Schedule of permits and governmental approvals: approvals, certificates, permits and licenses (complete as required)**

**Schedule 6.16**

**Environmental Matters**

**Schedule 7.4**

**Purchaser Consents and Approvals**

**Schedule 8.1**

**Consents**

**EXHIBIT A**

**LEGAL DESCRIPTION OF PROPERTY**

The following real property located in \_\_\_\_\_\_\_\_\_\_ County, State of Oregon:

**EXHIBIT B**

**FORM OF GUARANTY**

**EXHIBIT C**

**FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT**

**EXHIBIT D**

**FORM OF BILL OF SALE**