

Kitsap Non-Wires Alternatives RFP:

Exhibit G. Prototype Clean Energy PPA Term Sheet

EXHIBIT G. PROTOTYPE CLEAN ENERGY PPA TERM SHEET

*Prototype Clean Energy¹ PPA Term Sheet***Background**

This Prototype Clean Energy PPA Term Sheet (“Term Sheet”) sets forth the current requirements that PSE wants the Respondent to address or incorporate into any proposal made to PSE that contemplates the sale of clean energy products to PSE, either on a unit-contingent or not unit-contingent basis. It is intended to identify certain, but not all, of the elements of a potential transaction that would be embodied in a definitive power purchase agreement (“PPA”). This Term Sheet may serve as the basis for a proposal involving a clean energy generating facility [and/or a storage facility] in development or in operation. The terms presented and bracketed herein are indicative of PSE’s expectations and may be subject to negotiation depending upon the particular nature of the proposal and other factors.

By submitting its proposal, Respondent acknowledges that the RFP, including this Term Sheet, has been prepared by PSE as part of PSE’s ongoing process of solution development for Kitsap transmission capacity needs and that PSE is considering alternative arrangements for the procurement of energy products. This Term Sheet is an integral part of, and subject to, the terms and conditions of the RFP. This Term Sheet shall not be interpreted as an offer, agreement or commitment by PSE to acquire any energy product. Also, this Term Sheet shall not limit, restrict or obligate PSE with regard to the conduct of its solution development process, the potential implementation of any plan or program of resource procurement or the actual procurement of any energy product.

PSE reserves the right to reject any and all proposals received in response to the RFP, request the submission of different proposals for other resources and/or seek to acquire resources from one or more parties other than any Respondent. PSE may also modify, change, supplement or delete any and all provisions of this Term Sheet, or withdraw and cancel the RFP.

Parties

Puget Sound Energy, Inc. (“Buyer”) and [_____] (“Seller”).

Generating Facility

For unit-contingent agreements:

A clean energy electric generating facility [and/or a storage facility] with a planned nameplate capacity of [_____] MW [and with a storage capacity of [_____] MW x [_____] hours] to be developed by Seller and located

¹ Clean energy means energy produced by a renewable or non-emitting generating facility.

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[_____].² [The anticipated inverter load ratio (DC/AC) is [____].]

For non-unit-contingent agreements:

A shaped clean energy alternative product.

Product

For unit-contingent agreements:

Clean electrical energy from the Generating Facility as delivered to the Point of Delivery and all Green Attributes associated with the generated energy, as further described and defined below, as well as any associated electrical capacity rights shall accrue to Buyer.

For non-unit-contingent agreements:

The shaped 8760 clean energy alternative product is as follows: [____].

Term

The PPA shall be effective when signed and shall terminate [10/12/15/20]³ .⁴ years from the Commercial Operation Date (as defined below under “Commercial Operation”) (the “Term”).

Point of Delivery

[_____] in e-tag scheduling documentation (“Point of Delivery”).

Contract Quantity

100% of the net electrical output of the Generating Facility, and any capacity rights, as well as all Green Attributes (as described below).

Contract Price

\$(____) per MWh of energy delivered to the Point of Delivery and all Green Attributes (defined below) associated therewith (the “Contract Price”). The Contract Price shall (i) become applicable on the Commercial Operation Date, (ii) remain in effect for the Term and (iii) not be subject to change by Seller or Buyer for any reason.

Green Attributes

All environmental, renewable energy or green attributes of any kind or nature, current or future, whether in the form of renewable energy credits

² This Term Sheet generally contemplates offers for clean energy generation from facilities to be constructed; however, Buyer also shall entertain offers from existing facilities and non-unit-contingent offers and, in such case, certain provisions of this Term Sheet pertaining, for example, to construction obligations of Seller, shall not apply.

³ Non-unit contingent market PPAs must comply with Washington State’s emission performance standards. PPAs with term lengths five years or longer must specify the associated resource or pool of resources and demonstrate compliance with the standards.

⁴ PSE will consider contract terms longer than 20 years if the developer can demonstrate the asset has useful life longer than 20 years.

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or certificates ("RECs"), green tags, emissions credits or allowances or other credits or allowances similar to the foregoing ("Green Attributes") shall be conveyed to Buyer and are included in the Contract Price.

Electrical Output	Buyer agrees to buy all of the energy delivered by Seller to the Point of Delivery in accordance with the PPA (the "Delivered Energy"), subsequent to the Commercial Operation Date and also as stipulated in the "Test Power" section below.
Test Power and Green Attributes	Subsequent to the commissioning of the first [wind turbine generator/PV module] included in the Generating Facility, but before the Commercial Operation Date, Buyer shall purchase the electric power (and associated Green Attributes) produced by the Generating Facility prior to the Commercial Operation Date (collectively, "Test Products"). The price for such Test Products shall be equal to [__% of the applicable Intercontinental Exchange Mid-Columbia day ahead index price for power at the time of purchase].
Commercial Operation⁵	Commercial Operation shall mean, with respect to the Generating Facility, that date designated by Seller and confirmed by Buyer on which at least [percent (%)] of the nameplate capacity constituting the Generating Facility have been placed in commercial operation, as evidenced by an officer's certificate of Seller and a confirmation from Buyer (which confirmation shall not be unreasonably withheld or delayed), but such date shall be no earlier than the date upon which the following have occurred: (i) the interconnection agreement for the Generating Facility has been executed, (ii) the Generating Facility has been satisfactorily tested and commissioned, and (iii) all related facilities, governmental approvals, permits and land rights have been completed or obtained, including all interconnection facilities and substations, to allow for continuous operation of the Generating Facility at its expected output and the sale and delivery of energy and Green Attributes therefrom ("Commercial Operation"). The "Commercial Operation Date" shall be the date that the Generating Facility achieves Commercial Operation. Seller shall use commercially reasonable efforts achieve Commercial Operation for any remaining [wind turbines/PV modules] as soon as reasonably possible thereafter. If the Commercial Operation Date is achieved, but the Final Nameplate Capacity is less than one hundred percent (100%) of the Planned Nameplate Capacity, Seller shall make a one-time payment of liquidated damages to Purchaser in the amount of [Dollars (\$)/MW]

⁵ To be included if the Facility is under development or construction.

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for each MW that the Final Nameplate Capacity is below the Planned Nameplate Capacity.

Seller shall provide a Guaranteed Commercial Operation Date for the Generating Facility. The Guaranteed Commercial Operation Date shall be extended for delays caused by Buyer or force majeure events (with extensions for force majeure events not to exceed [] days in the aggregate), subject to compliance by Seller of its obligation to mitigate such delays. In the event Seller fails to achieve Commercial Operation on or before the Guaranteed Commercial Operation Date, Seller shall be required to pay to Buyer liquidated damages for each day of delay beyond the Guaranteed Commercial Operation Date in the amount per day of [\$] per MW of the Generation Facility's Planned Nameplate Capacity. If the Commercial Operation Date has not been achieved within [] days after the Guaranteed Commercial Operation Date, it shall be an Event of Default under the PPA and Buyer shall be entitled to terminate the PPA and seek damages or exercise other remedies at law or equity.

**Development
Milestones⁶**

Seller shall use commercially reasonable efforts to achieve the agreed upon Development Milestones for the Generating Facility, which shall include "interim" major milestones, such as receipt of all applicable permits, EPC contract execution, commencement of physical construction, commencement and completion of generation tie-line construction, completion of construction of foundations, generation equipment commitment date, energization date, and test energy date. The guaranteed major Development Milestone dates shall be subject to extension for delays caused by Buyer or force majeure events, subject to compliance by Seller of its obligation to mitigate such delays. In the event Seller fails to achieve a major Development Milestone on or before the guaranteed date therefor, Seller shall be required to pay to Buyer "interim" liquidated damages for each day of delay beyond the applicable guaranteed date in an amount per day of [\$] per MW of the Generating Facility's Planned Nameplate Capacity. If certain major Development Milestones have not been achieved within [] days after the guaranteed date therefor, it shall be an Event of Default under the PPA and Buyer shall be entitled to terminate the PPA and seek damages or exercise other remedies at law or equity. Interim liquidated damages shall be credited against the amount of any delay liquidated damages payable for a failure to achieve the Commercial Operation Date by the Guaranteed Commercial Operation Date and if any such credits are not fully utilized as of the Commercial Operations Date, Buyer shall refund such remaining amount

⁶ To be included if the Facility is under development.

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of interim liquidated damages to Seller. If the Guaranteed Commercial Operation Date ultimately is achieved despite Seller's failure to satisfy one or more of the other major Development Milestones, Buyer shall refund such interim liquidated damages to Seller.

Labor

To the greatest extent possible and subject to any collective bargaining agreement of Seller or its affiliates, if any, Seller shall hire local workers (particularly local unionized workforce) during construction of the Generating Facility and as permanent employees for the operation of the Generating Facility and performance of Seller's obligations under the terms of the PPA. Seller shall use commercially reasonable efforts to use apprenticeship labor to meet the Washington State Apprenticeship and Training Council requirements so as to allow Purchaser to qualify for the statutory one and two-tenths (1.2) multiplier for quantifying the Attributes from the Generating Facility.

As required by WAC 480-107-075, Seller shall furnish to Purchaser from time to time, upon Purchaser's reasonable request, and in any event not more than once annually, a report detailing the use by Seller of diverse businesses, including but not limited to women-, minority-, disabled-, and veteran-owned businesses, and a report detailing the application of the labor standards in RCW 82.08.962 and 82.12.962.

Standard of Operation

Seller shall operate the Generating Facility in accordance with the practices, methods, acts, guidelines, standards and criteria of relevant system operators or reliability councils, and all applicable laws. Seller shall, at its sole cost and expense, obtain all certifications, permits, licenses and approvals necessary to construct, operate and maintain the Generating Facility and to perform its obligations under the PPA.

Curtailments

Under no circumstances shall Buyer have any liability or owe any damages to Seller due to any curtailment of the Generating Facility; provided, however, that if Buyer requests Seller to curtail energy deliveries for economic reasons, Buyer shall pay to Seller the Contract Price for the lost energy production based on actual availability data during the period of curtailment. Seller shall use reasonable efforts to sell energy and Green Attributes generated by the Generating Facility during any such curtailment at the best price reasonably available in the market at the time of sale in order to minimize negative financial impacts to Buyer. Seller may sell the energy at a negative prices in Seller's sole discretion; provided that in no event will Buyer be required to credit or true-up Seller for any costs or losses associated with the sale of energy at a negative price. Any

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amounts received by Seller as a result of such mitigation sale shall be credited to the account of Buyer and applied as a credit in favor of Buyer in the invoice for the immediately succeeding month. Notwithstanding the foregoing, in the event that Seller is required to curtail energy deliveries from the Generating Facility in response to a force majeure event, an “emergency condition,” or any other event or circumstance declared by BPA or any other transmission provider (including the transmission function of Buyer), Buyer shall have no liability to Seller on account of any such curtailment.

**Transmission
Services;
Interconnection**

During the Term, Seller shall be responsible for delivery of the energy to the Point of Delivery and Buyer shall be responsible for arranging, at Buyer’s expense, all transmission services from the Point of Delivery. Buyer shall be responsible for all costs of interconnection of the Generating Facility and any associated network upgrades required by Buyer’s transmission function or any other transmission provider. It shall be the specific responsibility of Seller to have secured transmission necessary to deliver the energy to Buyer's system. Buyer shall consider arrangements whereby Seller secures such transmission rights from the Generating Facility to Buyer's system and assigns those transmission rights to Buyer, with Buyer taking on responsibility for the costs of transmitting such energy to Buyer's system. Buyer shall also consider alternative arrangements where the Point of Delivery shall be at an appropriate point on Buyer's system.

Metering

Subject to the requirements of the interconnection agreement for the Generating Facility, Seller shall be responsible for the provision, maintenance, reading and testing of all metering equipment in conformance with all applicable regulatory requirements, with Buyer having rights to inspect, observe tests and conduct its own tests in its reasonable discretion.

**Scheduling
Coordinator;
Imbalances; and
Integration
Charges**

Seller shall be responsible for arranging all scheduling services necessary to ensure compliance with applicable regional power scheduling regulations and protocols. Seller shall prepare and put in place certain mutually acceptable scheduling protocols to be followed by Seller, including the nature and extent of information to be supplied to Buyer in connection with the scheduling of the Generating Facility.

Seller shall arrange and be responsible for any transmission services required to deliver energy to the Point of Delivery and shall schedule or arrange scheduling services with its transmission providers to deliver the

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energy to the Point of Delivery. Buyer shall arrange and be responsible for transmission services from the Point of Delivery and shall schedule or arrange for scheduling services with its transmission providers to receive energy at the Point of Delivery. Seller shall be responsible for all charges for transmission or wheeling services, ancillary services, imbalance, control area services, congestion, location marginal pricing differentials, electrical losses, and any other transfer-related charges (collectively, "Charges") attributable to or assessed for energy delivered to Buyer at the Point of Delivery. Buyer shall be responsible for all Charges from and after the Point of Delivery.

Seller shall be obligated to pay, or reimburse Buyer for the payment of (in the event any obligation is imposed in this respect on Buyer), any generation imbalance charges related to the over-generation or under-generation of energy scheduled to be generated by the Generating Facility, except if such charges directly result from the unexcused failure of Buyer to receive scheduled energy.

Seller shall be responsible for and obligated to pay any integration charge or similar charge imposed by BPA or any other transmission provider, including charges resulting from or attributable to the integration of resources into the transmission system of such transmission provider.

**Resource
Adequacy
Program**

Purchaser may participate in the regional Resource Adequacy (RA) Program to be administered by a regional organization, which is yet to be determined. In such case, Purchaser would intend for the Seller to be designated as a participating RA resource in the RA program, with Purchaser acting as RA Coordinator. Seller anticipates working with Purchaser to enable Seller to qualify as a participating resource in the RA program.

**Energy Imbalance
Market**

Purchaser participates in the Energy Imbalance Market ("EIM") operated by the CAISO. For resources within Purchaser's Balancing Authority Area ("BAA") Purchaser may intend for the Seller to be designated as a participating resource (or its equivalent from time to time) in the Energy Imbalance Market, with Purchaser acting as Scheduling Coordinator (as defined in the CAISO Open Access Transmission Tariff) for the Facility. In such case, Purchaser and Seller should expect to work together to complete the technical review described in Section 3.3 of the EIM BP, which shall identify improvements to the Facility required for the Facility to be designated as a participating resource in the Energy Imbalance Market. Upon conclusion of the technical review, Seller shall cause any

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required improvements to the Facility to be implemented, at Seller's sole cost and expense. Seller anticipates working with Purchaser to enable Seller to qualify as a participating resource in the Energy Imbalance Market and, if applicable, the Extended Day Ahead Market.

Taxes

Purchaser shall pay all Washington State sales and use taxes arising out of or with respect to the purchase or sale of energy and/or Green Attributes that are imposed by any taxing authority at or after the Point of Delivery (regardless of whether such Washington State sales and use taxes are imposed on Purchaser or Seller). Seller shall pay all other taxes, including taxes arising out of or with respect to the purchase or sale of energy and/or Green Attributes that are imposed by any taxing authority prior to the Point of Delivery, taxes based on or measured by net income, business and occupation taxes, public utility taxes, property taxes, replacement taxes and/or special assessments that may be levied upon the Generating Facility as well as state or local sales taxes applicable to the construction, maintenance, repair or operation of the Generating Facility.

Operation and Maintenance

Seller shall develop written operating procedures ("Operating Procedures") for the Generating Facility before the applicable initial delivery date which shall set forth the protocol under which the Parties shall perform their respective obligations under the PPA and shall include, without limitation, procedures concerning the following: (i) the method of day-to-day communications, (ii) key personnel lists for Seller and Buyer, including an appointed authorized representative for each Party and (iii) forced outage and planned outage reporting.

During the Term, the Generating Facility shall be operated and maintained by Seller or its designee in accordance with those practices, methods, and acts that are commonly used by a significant portion of the clean energy powered electric generation industry in prudent engineering and operations to design and operate such electric equipment lawfully and with safety, dependability, efficiency, and economy, including any applicable practices, methods, acts, guidelines or standards and criteria of governing regulatory bodies and reliability councils and all applicable requirements of law.

Outages

No later than ninety (90) days prior to the beginning of each calendar year during the Term, Seller shall provide Buyer with a non-binding detailed planned outage schedule for the forthcoming year.

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Seller shall furnish Buyer with as much advance notice as practicable of any proposed or necessary maintenance outages. The Parties shall work to plan such outage to mutually accommodate, as practicable, the reasonable requirements of Seller and the reasonable requests of Buyer.

Except to the extent necessary or advisable in accordance with prudent operating practices, no planned outages or routine maintenance shall be scheduled during the months of November, December, January, or February.

Seller shall promptly provide written notice to Buyer, to the extent information is available, of the reason, timing, expected duration and the impact upon the energy output of any forced outage. Seller also shall provide to Buyer, in a form reasonably acceptable to Buyer, a monthly report of forced outages.

**Availability/
Output
Guarantees**

For all unit-contingent offers:

Seller shall provide Buyer with an availability guarantee of [%]. Seller shall pay to Buyer liquidated damages if the Generating Facility fails to meet the Guaranteed Availability in any contract year after the Commercial Operation Date.

Seller's failure to cause the Project to achieve an Availability Factor of at least [percent (%)] for any [] consecutive Contract Years, commencing on the first anniversary of the Commercial Operation Date will be grounds for default.

Credit Support

Upon execution of the PPA, if Buyer deems it necessary due to Seller's credit position, Seller shall provide Buyer with a guaranty, cash collateral and/or letter of credit in forms and amounts acceptable to Buyer in the amount of [\$ per MW]. In addition to the foregoing security, Seller shall furnish Buyer with a lien on its interest in the Generating Facility to secure Seller's obligations to Buyer. Buyer shall agree to subordinate such lien as may be reasonably necessary to accommodate Seller's first lien construction and/or permanent financing of the Generation Facility. Buyer shall not be required to provide credit support or performance assurance of any kind to Seller.

Default

The PPA shall include customary events of default ("Events of Default") including for failure to make payments when due, failure to perform a

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material obligation, breach of representation or warranty, bankruptcy, failure to maintain required credit support, etc.

In addition to customary Events of Default, the following shall be additional Events of Default, subject to extension for delays caused by Buyer or force majeure events and compliance by Seller of its obligation to mitigate such delays:

Failure to achieve certain Development Milestones within [] days after the guaranteed date therefor (as described above).

Failure to achieve the Commercial Operation Date within [] days after the Guaranteed Commercial Operation Date (as described above).

Subsequent to the Commercial Operation Date, Seller fails to achieve the Minimum Annual Availability/Minimum Annual Output for any [] consecutive contract years or for any [] contract years during the Term.

Subsequent to the Commercial Operation Date, Seller fails to achieve the Guaranteed Availability for any [] consecutive contract years or for any [] contract years during the Term.

Each Party shall have a duty to mitigate damages and covenants that it shall use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's default or non-performance of the PPA.

Termination

Buyer may terminate the PPA if Seller fails to achieve Commercial Operation by the date that is [] days after the Guaranteed Commercial Operations Date.

If an Event of Default shall have occurred, the non-defaulting Party shall have the right to terminate the PPA and, in such case, each Party shall pay the other all amounts due for all periods prior to termination. In addition, the defaulting Party shall make a termination payment to the non-defaulting party.

Any termination payment under the PPA shall be based on a comparison of the net present value of the payments that the non-defaulting Party reasonably expects to be applicable in the market under a replacement contract covering the same products (e.g., energy and Green Attributes) to the net present value of the then remaining payments under the PPA, plus the reasonable costs of the non-defaulting Party arising as a result of such Event of Default, including the costs of entering into a new supply or

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sales arrangement. Any such calculations shall be based on reasonable assumptions as to future Generating Facility operations, differences between a replacement contract and the PPA, discount rate and similar considerations, as reasonably determined by the non-defaulting Party.

Indemnification The PPA shall include customary indemnification obligations between the Parties including for liabilities related to energy once delivered to Buyer at the Point of Delivery.

Insurance Seller shall be expected to maintain insurance in an amount customary for the industry.

Limitation of Liability Unless expressly provided in the PPA, a Party's liability shall be limited to direct actual damages only, which direct actual damages shall be the sole and exclusive remedy and all other remedies or damages at law or equity are waived. Neither Party shall be liable to the other Party for consequential, incidental, punitive, exemplary or indirect damages, lost profits or other business interruption damages, whether such damages are allowed or provided by statute, in tort, under any indemnity provisions or otherwise except and only to the extent that any actual or liquidated damages expressly provided for in the PPA include an element of profit or other type of damages which are otherwise disclaimed and except to the extent required through indemnification on account of third party claims.

Dispute Resolution The PPA would contain provisions for the resolution of disputes, and the exclusive forum for the resolution of any dispute arising under or in connection with this Term Sheet or the PPA would be King County, Washington or if no such court will accept jurisdiction, in any state or federal court of general jurisdiction in the State of Washington, or if no such court will accept jurisdiction, in any court of competent jurisdiction in the United States) with respect to any proceeding relating to the PPA.

Expenses Unless otherwise provided for in the RFP, Each party would bear its own legal, accounting, regulatory and other professional fees and expenses and other costs associated with the RFP and a potential transaction, regardless of whether a transaction is consummated.

Governing Law The PPA shall be governed by the laws of the State of Washington, without regard to conflicts of laws principles. Venue shall be in King County, Washington.

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Assignment

Neither Party shall assign any of its rights or obligations under the PPA without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed, except that either Party may, without the other Party's consent, (i) transfer, sell, pledge, encumber or assign the PPA or the revenues or proceeds thereof in connection with any financing, (ii) transfer or assign the PPA to an affiliate or (iii) transfer or assign the PPA to any person or entity succeeding to all or substantially all of the assets of such Party; provided that in the case of clauses (ii) or (iii) above, the assignee agrees to be bound by all terms and conditions. In addition, with respect to any proposed assignment by Seller: (a) either the assignee or its guarantor must possess the same or better credit rating as Seller, or provide credit support reasonably acceptable to Buyer; and (b) the assignee or its affiliates must have a minimum of three (3) years' experience in the clean energy generation and operation business, including owning, controlling or operating for at least three (3) years a minimum of [() MW] of clean energy generation capacity.