
PUGET SOUND ENERGY

**Attachment "C" Agreement: Schedule 91 Purchase from Qualifying Facility of
Five Megawatts or Less – Non RCW 80.80.040 Compliant QF**

Schedule 91
Power Purchase Agreement

Between

Puget Sound Energy

and

[Name of Seller]

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POWER PURCHASE AGREEMENT

This Power Purchase Agreement (this "Agreement"), dated as of [REDACTED] (the "Effective Date"), is made by and between Puget Sound Energy, a Washington corporation ("PSE"), and [Name of Seller] ("Seller"). Each of PSE and Seller is sometimes referred to herein in the singular as a "Party" and in the plural as the "Parties."

RECITALS

A. PSE is an investor-owned electric utility company subject to the jurisdiction of the Federal Energy Regulatory Commission ("FERC") and the Washington Utilities and Transportation Commission ("WUTC"), and is subject to the Public Utilities Regulatory Policies Act of 1978 as amended by the Energy Policy Act of 2005 ("PURPA") and is interested in purchasing a supply of electric power at a reasonable cost.

B. Seller owns (or leases) and operates or will own (or lease) an electric generating facility in [REDACTED] County, [INSERT STATE], with the following specifications:

- Resource Name: [REDACTED];
- Resource Technology: [description of the resource technology];
- Facility Capacity: [REDACTED] kilowatts ("kW") alternating current; and
- Maximum Output: [REDACTED] kW alternating current.

(the "Facility"), which Facility is a qualifying co-generator or small power production facility under PURPA.

C. Seller has requested to interconnect or has interconnected the Facility to the PSE Distribution System (as defined below) pursuant to PSE's Schedule 152; (ii) requested to interconnect or has interconnected the Facility to the PSE Transmission System (as defined below); or (iii) has arranged for the transmission of Net Output to PSE at the expense of Seller.

D. Seller wishes to sell, and PSE wishes to buy, Net Output from the Facility.

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AGREEMENT

The Parties therefore agree as follows:

Section 1. Definitions

Whenever used in this Agreement, the following capitalized terms shall have the following respective meanings, unless the particular context clearly requires a different meaning:

1.1. "Agreement," "Effective Date," "Facility," "FERC," "kW," "Party," "Parties," "PSE," "PURPA," "Seller," and "WUTC" have the respective meanings set forth in the preamble and recitals above.

1.2. "Business Day" means a day of the week other than Saturday, Sunday or a state legal holiday identified in RCW 1.16.050(1).

1.3. "Claims" means all third party claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, attorneys' fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.

1.4. "Commencement Date" means [REDACTED].

1.5. "Defaulting Party" has the meaning set forth in Section 14.1(a).

1.6.

1.7. "Excusable Delay" has the meaning set forth in Section 8.1.

1.8. "Expiration Date" means the fifth (5th) anniversary of the Commencement Date.

1.9. "Facility" has the meaning set forth in the Recitals, together with all the equipment, facilities, structures, improvements, alterations, modifications, additions, betterments, property and property rights (e.g., for access to the Facility) thereof or related thereto as further described in Exhibit B attached hereto.

1.10. "Facility Capacity" means the total nameplate capacity of the Facility, in kW alternating current, identified in the recitals to this Agreement.

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1.11. "Fixed Price" has the meaning set forth in Schedule 91 of PSE's Electric Tariff G, as specified in Exhibit E attached hereto.

1.12. "Indemnified Person" means a PSE Indemnified Person or a Seller Indemnified Person.

1.13. "Indemnifying Party" means (a) with respect to the indemnification obligations owed to a PSE Indemnified Person, Seller, and (b) with respect to the indemnification obligations owed to a Seller Indemnified Person, PSE.

1.14. "Indemnified Loss" means any and all claims, demands, suits, obligations, payments, liabilities, costs, fines, penalties, sanctions, taxes, judgments, damages, losses or expenses imposed by a third party upon an Indemnified Person or incurred in connection with a Claim by a third party against an Indemnified Person.

1.15. "Interconnection Agreement" means the agreement(s) by and between Seller and, if any, PSE for the electrical interconnection of the Facility to the PSE Electrical System.

1.16. "Interconnection Facilities" means the equipment and facilities, if any, including any modifications, additions and upgrades made to such facilities, which are necessary to connect the Facility to the PSE Electrical System as described in the Interconnection Agreement.

1.17. "Monthly Net Output" means Net Output actually delivered from the Facility to the Point of Delivery, adjusted for losses pursuant to Section 3.3, during any month during the Operating Period.

1.18. "Net Output" means all of the electrical capacity and energy expressed in kWhs produced by the Facility that Seller is committed to sell to PSE, reduced by (i) any amounts of electrical capacity and energy, if any, used in connection with the operation of the Facility (e.g. station and other onsite use), and (ii) any transformation and transmission losses incurred between the Facility and the Point of Delivery.

1.19. "Operating Period" means the period commencing on the Commercial Operation Date, and, unless sooner terminated pursuant to Section 14.1, ending on the Expiration Date.

1.20. "Operational Permits" means all permits and approvals, regulatory or otherwise, required from any Governmental Authority to own, operate, use and maintain the Facility and to sell and deliver the Net Output of the Facility and identified in Exhibit C attached hereto.

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1.21. "Point of Delivery" means the point on the PSE Electrical System where Net Output from the Facility is to be delivered to PSE, as shown on the diagram attached hereto as Exhibit A attached hereto.

1.22. "Prudent Electrical Practice" means those practices, methods, standards and acts engaged in or approved by a significant portion of the electric power industry in the Western Electricity Coordinating Council that at the relevant time period, in the exercise of reasonable judgment in light of the facts known or should reasonably have been known at the time a decision was made, would be expected to achieve the desired result consistent with good business practices, applicable law, safety, reliability, efficiency and expedition, and which practices, methods, standards and acts reflect due regard for the operation and maintenance standards recommended by applicable equipment suppliers and manufacturers, operational limits, and all applicable laws and regulations. Prudent Electrical Practice is not intended to be limited to the optimum practice, method, standard or act to the exclusion of all others, but rather to the spectrum of possible practices, methods, standards or acts generally acceptable to or approved by a significant portion of the electric power generation industry in the relevant region, during the relevant period, as described in the immediately preceding sentence. **"PSE Distribution System"** means the facilities owned, controlled or operated by PSE that are used for the collection and distribution of electric energy at and after the Point of Delivery owned or operated by PSE, except the Interconnection Facilities. **"PSE Electrical System"** means, collectively, the PSE Distribution System and the PSE Transmission System.

1.25. "PSE Indemnified Person" has the meaning set forth in Section 13.1.

1.26. "PSE Transmission System" means the facilities owned, controlled or operated by the PSE that are used for the transmission of electric energy at and after the Point of Delivery, except the Interconnection Facilities.

1.27. "QF" means "Qualifying Facility" as that term is defined in FERC regulations (codified at 18 CFR Part 292) and in Washington Administrative Code Chapter 480-106.

1.28. "Schedule 91" has the meaning set forth in Section 3.3.

1.29. "Seller Indemnified Person" has the meaning set forth in Section 13.2.

1.30. "Term" has the meaning set forth in Section 2.

1.31. "Terminating Party" has the meaning set forth in Section 14.1(a).

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Section 2. Term

This Agreement will become effective as of the Effective Date and terminate on the Expiration Date, unless earlier terminated pursuant to Section 14 (the "Term").

Section 3. Purchase and Sale of Net Output**3.1. General.**

Subject to the provisions of this Agreement and PSE's Electric Tariff G, Seller shall sell to PSE, and PSE shall purchase and receive from Seller, all of the Net Output of the Facility delivered by Seller to the Point of Delivery during the Operating Period.

3.2. Title and Risk of Loss.

Seller shall convey good title to the Net Output to PSE at the Point of Delivery free and clear of any liens or other encumbrances or title defects, including any which would affect PSE's ownership of any portion of such Net Output or prevent the subsequent transfer of such Net Output by PSE to a third party. Title to and risk of loss with respect to Net Output delivered to PSE by Seller in accordance with this Agreement shall pass from Seller to PSE when such Net Output is delivered at the Point of Delivery. Until title passes, Seller shall be deemed in exclusive control of the Net Output and shall be responsible for any damage or injury caused thereby. After title to the Net Output passes to PSE, PSE shall be deemed in exclusive control of such Net Output and shall be responsible for any damage or injury caused thereby.

3.3. Purchase Price for Monthly Net Output.

For Monthly Net Output, PSE shall pay to Seller an amount equal to the rate set forth in Schedule 91 of PSE's Electric Tariff G ("Schedule 91"), as specified in Exhibit E attached hereto. A sample calculation of the amount payable for Monthly Net Output is attached as Exhibit E to this Agreement.

3.4. Payment for Net Output.

PSE shall pay Seller any amount payable in accordance with Section 3.3 for Monthly Net Output on or before the last day of the next following calendar month.

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Section 4. Operation of the Facility**4.1. Permits and Other Rights.**

Seller shall obtain, maintain and comply with all Operational Permits. Seller shall furnish to PSE on request copies of all documents granting, evidencing or otherwise related to the Operational Permits.

4.2. Performance.

Seller shall own, operate, use and maintain the Facility:

- (a) at its own risk and expense;
- (b) in a safe, prudent, dependable, efficient, orderly, skillful and workmanlike manner;
- (c) in compliance with the Operational Permits;
- (d) in compliance with all applicable laws, ordinances, rules, regulations, orders and other requirements, now or hereafter in effect, of any governmental authority; and
- (e) in accordance with Prudent Electrical Practice.

4.3. Responsibility.

Seller shall have full responsibility for the ownership, operation, use and maintenance of the Facility and for delivery of Net Output from the Facility to the Point of Delivery (whether by Seller, any of Seller's assignees, contractors or suppliers of any tier, or any other person or entity), notwithstanding any:

- (a) review, approval, consent, advice, recommendation, authorization, notice, inspection, test or other act by PSE;
- (b) failure or delay by PSE to review, approve, consent, advise, recommend, authorize, notify, inspect, test, disconnect (as contemplated under Section 7) or perform any act; or
- (c) knowledge or information of PSE.

No review, approval, consent, advice, recommendation, authorization, notice, inspection, test or other act by PSE regarding the ownership, operation, use or

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maintenance of the Facility or the delivery of Net Output from the Facility to the Point of Delivery shall constitute or be interpreted or construed as, or be relied upon or held out by Seller or any other person or entity as, any warranty, representation or endorsement by PSE. PSE shall have no obligation to purchase Net Output from the Facility not delivered to PSE.

4.4. Coordination of Facility Operation.

Seller shall operate the Facility on a reliable basis until the end of the Operating Period, subject to forced outages and outages for scheduled maintenance, repairs, replacements, improvements, alterations and modifications of, and additions to, the Facility. On or before October 31 of each calendar year, Seller shall give PSE written notice of all outages scheduled for the following calendar year. Seller shall give PSE at least sixty (60) days' advance written notice of any scheduled maintenance that would require shut down of the Facility for any period of time. If the Facility ceases operation for unscheduled maintenance, Seller shall immediately notify PSE of the necessity of such unscheduled maintenance, the time which such maintenance occurred or will occur, and the anticipated duration of such maintenance. Seller shall take all reasonable measures and exercise its best efforts to avoid unscheduled maintenance, to limit the duration of such unscheduled maintenance, and to perform unscheduled maintenance during off-peak hours.

4.5. Protection of Persons and Property.

Seller shall use reasonable efforts to take all precautions that are necessary to prevent bodily harm to persons and damage to any property (including, but not limited to, the Facility, the PSE Electrical System and any electric system with which the PSE Electrical System is interconnected) in connection with the interconnection, if any, of the Facility with the PSE Electrical System. Seller shall use reasonable efforts to inspect all materials, tools, supplies, equipment, goods and other items used, consumed or incorporated in or during the interconnection of the Facility to discover any conditions that involve a risk of bodily harm to persons or a risk of damage to any property and shall be fully responsible for the discovery and correction of, and protection against, such conditions.

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Section 5. Interconnection and Metering for a Customer-Generator Seller**5.1. Interconnection.**

(a) This Section 5.1 applies to any Facility that interconnects with the PSE Electrical System and does not apply to any Facility that interconnects with the electrical system of a third party.

(b) Interconnection shall comply with PSE's standards for interconnection. To the extent that interconnection of the Facility is provided for in Schedule 80 and Schedule 152 of PSE's Electric Tariff G, the terms and provisions of such Schedule 80 and Schedule 152 shall govern and control. Seller shall enter into an interconnection agreement with PSE, such agreement to be in the forms of interconnection agreements in PSE's Schedule 152 (for interconnection to the PSE Distribution System) or in such other form as may be agreed to by the Parties.

(c) Seller shall not alter or modify interconnection of the Facility with the PSE Distribution System without prior written authorization from PSE, which authorization shall not be unreasonably withheld or delayed. Seller shall make any such interconnection, alteration or modification only in accordance with detailed plans, drawings and specifications consented to by PSE. Such plans, drawings and specifications shall be in conformance with Prudent Electrical Practice and with PSE's then-current standards and practices relating to the design and construction of electrical facilities.

(d) Seller shall pay to PSE the amount of all costs and expenses reasonably incurred or to be incurred by PSE to furnish any equipment and perform any work or otherwise in connection with the interconnection of the Facility with the PSE Electrical System in accordance with the terms and conditions of the Interconnection Agreement. PSE shall retain ownership of all equipment and other items furnished by PSE and such equipment and items shall constitute part of the PSE Electrical System for purposes of this Agreement. Seller shall (a) furnish PSE, or reimburse to PSE its costs to acquire, such additional rights (e.g., fee title or perpetual easements to the land on which such equipment and items are located or access to such items is provided) as PSE may reasonably require to own, operate, maintain, repair, replace, modify, improve and otherwise deal with such equipment and items as part of the PSE Electrical System during the Operating Period, and (b) provide PSE with such indemnifications, and make such representations and warranties for the benefit of PSE, with respect to such additional rights and the

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environmental condition of such land, and land surrounding such land, as PSE shall request.

(d) If PSE makes any alteration, modification or other change to the PSE Electrical System that requires any alteration, modification or other change to the Facility or interconnection (including, but not limited to, an upgrading of, or any voltage change with respect to, any of PSE's facilities), then the costs of such changes to the Facility or interconnection shall be borne by Seller. PSE shall use its reasonable best efforts to provide Seller reasonable advance notice of any such required changes to the Facility or interconnection. Upon expiration or termination of the Operating Period, PSE shall have the right to disconnect the Facility and remove all equipment and other items, ownership of which is retained by PSE pursuant to Section 5.1(c).

5.2. Metering.

(a) All Net Output delivered under this Agreement shall be measured by meters to be owned, installed, operated and maintained by PSE. Such meters shall be set to compensate for any real energy losses and reactive energy losses incurred between the meters and the point where the average circuit load is half the generator peak output. Seller shall reimburse PSE for all costs reasonably incurred by PSE in connection with such metering (including, but not limited to, all costs of metering, telemetering, communication lines for remote billing data retrieval and other equipment to be installed by PSE for the Facility). Such reimbursement shall be made by Seller within thirty (30) days after Seller's receipt of PSE's invoice therefore. All metering, telemetering and other equipment installed by PSE shall be and remain PSE's property, notwithstanding such reimbursement.

(b) If, upon test, such meters are found to be inaccurate by more than two percent (2%) or if such meters are for any reason out of service or fail to register, then the Parties shall use their best efforts to estimate the correct amounts of Net Output delivered during the periods affected by such inaccuracy, service outage or failure to register by the best available means. In the event that, as a result of such estimate: (1) the amount of electrical energy credited to PSE is decreased, Seller shall reimburse PSE for any overpayment made by PSE, such reimbursement to be in the form of (i) a deduction from the next succeeding payment or payments by PSE for Monthly Net Output due Seller pursuant to Section 3.3 or (ii) cash, if no such succeeding payments in an amount exceeding the amount of such overpayment are or shall be due; or (2) the amount of electrical energy credited to PSE is increased, PSE shall pay

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Seller for such increased credit for electrical energy, if any, at the purchase price set forth in Section 3.3. Notwithstanding the foregoing, if, upon test, PSE's meters for determining amounts of Net Output delivered under this Agreement are found to be inaccurate by not more than two percent (2%), then any previous recordings of such meters shall be deemed accurate. PSE shall promptly cause meters found to be inaccurate to be adjusted to correct such inaccuracy to the extent practicable. Metering shall be at [secondary][primary] voltage located at the [Facility], and shall be adjusted for any applicable line and transformation losses.

Section 6. Delivery of Net Output; Curtailment**6.1. Delivery of Net Output.**

Seller shall deliver the output of the Facility to PSE on a reliable basis at the Point of Delivery and in the form specified in the Interconnection Agreement. These requirements shall be met at the Point of Delivery, during all hours of operation and in all operating conditions. Seller shall have full responsibility for such delivery of Net Output from the Facility directly to the PSE Distribution System.

6.2. Curtailment.

PSE shall have the right at any time during the Operating Period, without incurring any liability therefor to Seller, to interrupt, suspend or curtail delivery, receipt or acceptance of delivery of Net Output from the Facility (and, in the case of such interruption or suspension, delivery of Net Output to the Facility under PSE's Electric Tariff G), if PSE determines (through manual operation, automatic operation or otherwise) in the exercise of its sole discretion that the failure to do so:

- (a) may endanger any person or property, or the PSE Electrical System, or any electric system with which the PSE Electrical System is interconnected;
 - (b) may cause or contribute to an imminent significant disruption of electric service to PSE's customers; or
 - (c) may interfere with the performance, integrity, reliability or stability of the PSE Electrical System or any system with which the PSE Electrical System is interconnected.
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PSE shall promptly notify Seller of the reasons for any such interruption, suspension or curtailment. PSE shall use reasonable efforts to mitigate and limit the duration of any such interruption, suspension or curtailment.

Section 7. Access and Information**7.1. Access.**

Seller shall provide PSE, and PSE shall have the right of, such access as PSE may reasonably require, by personnel and for equipment, to and from the Facility for the following purposes:

- (a) installation, inspection, testing, repair, replacement, improvement, alteration, modification, operation, use, maintenance, reading and removal of the meters, equipment and other property described in Section 5.2(b) or otherwise owned by PSE;
- (b) any disconnection, interruption, suspension or curtailment described in Section 6.2; and
- (c) inspection and testing described in Section 7.2.

Seller may make such access subject to limitations required by Prudent Electrical Practice. Seller shall and hereby does grant to PSE all necessary licenses, permits, easements and rights-of-way for the access and purposes described in this Section 7.1 and shall execute, acknowledge and deliver to PSE such additional documents as PSE may reasonably request to effectuate, evidence, vest, record or give notice of such licenses, rights-of-way and easements. In the event that Seller is not owner of the property on which Facility is located or of property necessary for access to and from the Facility, Seller shall cause all such licenses, permits, easements and rights-of-way to be granted to PSE by the owner thereof.

7.2. Inspections.

Seller shall permit PSE to inspect (and to be present at all Start-Up Tests and other tests of) the Facility and the operation, use or maintenance of the Facility. Seller shall provide PSE with reasonable advance notice of any such test or inspection by or at the direction of Seller.

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7.3. Information.

Seller shall promptly furnish PSE with copies of such plans, specifications, records and other information relating to the Facility, the arrangements between Seller and any other person or entity for transmission or delivery of Net Output from the Facility to the Point of Delivery, or the ownership, operation, use or maintenance of the Facility, as may be reasonably requested by PSE from time to time. All such information, together with all other documents and information furnished to PSE under this Agreement, shall be given to PSE on a non-confidential basis. Without limiting the generality of the foregoing, Seller shall provide to PSE such financial and other information that may reasonably request for PSE to satisfy any obligations PSE may have under FIN 46 with respect to its purchase of power under this Agreement.

Section 8. Excusable Delay**8.1. Excusable Delay.**

Subject to the exclusions in Section 8.2, neither Party shall be liable under this Agreement for, or be considered to be in breach of or default under this Agreement on account of, any delay in or failure of performance, or any delay or failure to deliver, receive or accept delivery of Net Output, due to any of the following events:

(a) any cause or condition beyond such Party's reasonable control which such Party is unable to overcome, or to have avoided or overcome, by the exercise of reasonable diligence. Such causes or conditions may include but are not limited to: fire, flood, earthquake, volcanic activity, wind, drought and other acts of the elements; court order and act of civil, military or governmental authority; strike, lockout and other labor dispute; riot, insurrection, sabotage and war; breakdown of or damage to facilities or equipment; electrical disturbance originating in or transmitted through such Party's electric distribution system or any electric system with which such Party's system is interconnected; and, act or omission of any person or entity other than such Party and such Party's contractors or suppliers of any tier or anyone acting on behalf of such Party.); or

(b) any action taken by such Party which is, in the sole judgment of such Party, necessary or prudent to protect the operation, performance, integrity, reliability or stability of such Party's electric system or any electric system with which such Party's electric system is interconnected, whether such action occurs automatically or manually.

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Subject to Section 8.1, any such delay or failure described in this Section 8.1(a) is referred to in this Agreement as an "**Excusable Delay**".

8.2. Excusable Delay Exclusions.

Notwithstanding Section 8.1, "Excusable Delay" shall specifically exclude any such delay or failure resulting from any of the following conditions, causes or events:

- (a) any change in the ownership, occupancy or operation of the Facility for any reason, including, without limitation, any downturn in the economy, recession, bankruptcy, foreclosure, change in tax law, change in production levels, and intercorporate transfer or consolidation;
- (b) any full or partial curtailment of the electrical output of the Facility arising from any mechanical or equipment breakdown, except to the extent that such breakdown is directly caused by an Excusable Delay; and
- (c) any change in market conditions or any governmental action that affects the cost or availability of Seller's supply of fuel or stock (whether primary or alternative) required for the operation of the Facility;
- (d) any denial of or delay in granting any Permit or any licenses, permits, easements and rights-of-way to be granted pursuant to Section 7.1.

8.3. Effect of Excusable Delay.

In the event of any Excusable Delay, the time for performance of the activity or obligation affected by the Excusable delay shall, subject to the terms of Section 14.1(b), be extended by a period of time reasonably necessary to compensate for such delay. Nothing contained in this Section 8.1 shall require any Party to settle any strike, lockout or other labor dispute. Each Party shall give the other Party prompt written notice of any delay which the Party giving notice considers to be an Excusable Delay of its performance. Such notice shall include a particular description of the event, cause or condition giving rise to the purported Excusable Delay, the projected duration of the Excusable Delay and a the mitigation plan to remedy or overcome such event, cause or condition. The suspension of performance shall be of no greater scope and of no longer duration than is required by such event, cause or condition. The non-performing Party shall use best efforts to remedy or overcome such event, cause or condition. Notwithstanding any of the foregoing, neither Party shall, on account of any event, cause or condition that otherwise gives rise to a delay or failure of performance by such Party that constitutes an Excusable Delay, be excused for any

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amount of time from any of its payment obligations under this Agreement, including, without limitation, the obligations of Seller under Section 5.1.

Section 9. Representations and Warranties

Each Party represents and warrants to the other Party as of the Execution Date as follows:

- (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
 - (b) it has or will have all regulatory authorizations necessary for it to legally perform its obligations under this Agreement (other than Operational Permits or other regulatory authorizations to be obtained by Seller for the ownership, operation, use or maintenance of the Facility or the delivery of Net Output from the Facility to the Point of Delivery, which Seller reasonably anticipates it will be able to obtain in due course);
 - (c) the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it, including any law, rule, regulation, order or the like governing the production and/or sale of electricity;
 - (d) the Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms except as the enforcement thereof may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of rights generally;
 - (e) there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement; and
 - (f) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement.
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Section 10. Qualifying Facility Status

Seller covenants that, during the Operating Period and before delivering Net Output to PSE under this Agreement, Seller shall cause the Facility to be a QF. Seller shall provide PSE with copies of the appropriate certification (which may include a FERC self-certification) within five (5) Business Days of filing or receiving the certification. During the Operating Period, Seller shall, to the extent required to prevent Seller from being regulated as a "Public Utility" pursuant to the Public Utility Holding Company Act of 2005 and FERC's implementing rules and regulations promulgated thereunder, maintain its QF status, and shall not seek to change the Contract Price as a result of its status as a QF. At any time during the term of this Agreement, PSE may require Seller, at Seller's sole cost, to provide PSE with evidence satisfactory to PSE in its reasonable discretion that the Facility continues to qualify as a QF under all applicable requirements and, if PSE is not satisfied that the Facility qualifies for such status, a written legal opinion from an attorney who is (a) in good standing before a state bar in the United States, and (b) has no economic relationship, association or nexus with the Seller or the Facility, stating that the Facility is a QF and providing sufficient proof (including copies of all documents and data as PSE may request) demonstrating that Seller has maintained and will continue to maintain the Facility as a QF.

Section 11. Adequate Assurance of Performance

If PSE has reasonable grounds for insecurity regarding the performance of any obligation under this Agreement (whether or not then due) by Seller, PSE may demand, and shall have the right to receive, from Seller adequate assurance of performance.

Section 12. Assignment, Sale or Transfer

Seller shall not assign, transfer, sell or convey any or all of its rights, title, interests or obligations in the Facility or under this Agreement to any person or entity without the prior written consent of PSE, which such consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, either Party may assign this Agreement without the other Party's consent to a lender as part of a financing transaction or as part of (a) a sale of all or substantially all of the assigning Party's assets, or (b) a merger, consolidation or other reorganization of the assigning Party.

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Section 13. Indemnification; Insurance; Limitation of Liability**13.1. Indemnification by Seller.**

Seller shall defend, indemnify and hold harmless PSE, its Affiliates, successors, and assigns, and the respective directors, officers, shareholders, employees, agents and representatives of PSE and its Affiliates, successors, and assigns (each, a "PSE Indemnified Person") against and from any and all Indemnified Losses resulting from, or arising out of or in any way connected with Seller's delivery of electric power to PSE or with the facilities at or prior to the Point of Delivery, or otherwise arising out of this Agreement, including without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property belonging to PSE, Seller or others, excepting to the extent such loss, claim, action or suit may be caused by the negligence of any PSE Indemnified Person.

13.2. Indemnification by PSE.

PSE shall defend, indemnify and hold harmless Seller, its Affiliates, successors, and assigns, and the respective directors, officers, shareholders, employees, agents and representatives of Seller and its Affiliates, successors, and assigns (each, a "Seller Indemnified Person") against and from any and all Indemnified Losses resulting from, or arising out of or in any way connected with PSE's receipt of electric power from Seller or with the facilities at or after the Point of Delivery, or otherwise arising out of this Agreement, including without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property belonging to PSE, Seller or others, excepting to the extent such loss, claim, action or suit may be caused by the negligence of any Seller Indemnified Person.

13.3. Indemnification Procedures.

Any Indemnified Person seeking indemnification under this Agreement for any Indemnified Loss shall give the Indemnifying Party notice of such Indemnified Loss promptly but in any event on or before thirty (30) days after the Indemnified Person's actual knowledge of such claim or action. Such notice shall describe the Indemnified Loss in reasonable detail, and shall indicate the amount (estimated if necessary) of the Indemnified Loss that has been, or may be sustained by, the Indemnified Person. To the extent that the Indemnifying Party will have been actually and materially prejudiced as a result of the failure to provide such notice within the thirty (30) day period, the Indemnified Person shall bear all responsibility for any additional costs or

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expenses incurred by the Indemnifying Party as a result of such failure to provide notice. In any action or proceeding brought against an Indemnified Person by reason of any claim indemnifiable under this Agreement, the Indemnifying Party shall assume the defense at the Indemnifying Party's expense, and shall have the right to control the defense thereof and to determine the settlement or compromise of any such action or proceeding. Notwithstanding the foregoing, an Indemnified Person shall in all cases be entitled to control its own defense in any action if it (i) may result in injunctions or other equitable remedies with respect to the Indemnified Person which would affect its business or operations in any materially adverse manner, (ii) may result in material liabilities which may not be fully indemnified under this Agreement or (iii) may have a material adverse effect on the business or the financial condition of the Indemnified Person (including a material adverse effect on the tax liabilities, earnings, ongoing business relationships or regulation of the Indemnified Person) even if the Indemnifying Party pays all indemnification amounts in full. Subject to the immediately preceding sentence, neither Party may settle or compromise any claim for which indemnification is sought under this Agreement without the prior written consent of the other Party; provided, however, said consent shall not be unreasonably withheld or delayed.

13.4. Insurance.

(a) Without limiting any liabilities or any other obligations of Seller under this Agreement, Seller shall secure and continuously carry throughout the Operating Period with an insurance company or companies rated not lower than "A-" by the A.M. Best Company the following insurance coverages:

(i) Commercial General Liability insurance written on an occurrence basis with a minimum limit of \$1,000,000 per occurrence, providing coverage for bodily injury (including death), personal and advertising injury, and property damage arising out of or in connection with the interconnection with the Electrical, or the ownership, operation, use or maintenance of the Facility under this Agreement. Such limit may be required to be increased or decreased by PSE as PSE determines in its reasonable judgment economic conditions or claims experience may warrant.

(ii) Workers' Compensation and Employer's Liability coverage if any time the Seller has one or more employees, in accordance with the applicable laws pertaining to the Facility.

(b) Prior to the connection of the Facility to the PSE Electrical System and at all other times such insurance policies are renewed or changed, Seller shall furnish

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PSE with certificates of insurance or such other evidence of the insurance required by this Section 13.4, in form and substance reasonably satisfactory to PSE. If Seller fails to provide PSE with certificates of insurance, PSE at its sole discretion and without limitation of other remedies, may upon ten (10) days' advance written notice by certified or registered mail to Seller withhold payments due Seller until PSE has received such documents.

(c) Without limiting any of the foregoing, any policy of insurance carried in accordance with this Section 13.4 and any insurance policy procured or maintained in substitution or replacement therefore shall include each of the following provisions:

- (i) a provision naming the PSE Indemnified Persons as additional insureds;
- (ii) a provision that such policy be primary to and without any right of contribution from any other insurance or self-insurance which may be available to, or maintained by, any PSE Indemnified Person;
- (iii) a cross liability or severability of insurance interest clause; and
- (iv) a provision that such policy shall not be lapsed or cancelled or their liability limit reduced below the limits required herein without thirty (30) days prior written notice to PSE.

Any policy of insurance carried by Seller in addition to the policies of insurance required under this Section 13.4 shall provide that the insurer of such policy shall waive any right of subrogation against any PSE Indemnified Person.

13.5. Damage to Property.

Except where caused by the other Party's negligence or willful misconduct, each Party shall be responsible for all physical damage to or destruction of the property, equipment and/or facilities owned by it, and each Party hereby releases the other Party from any reimbursement for such damage or destruction. The provisions of this Section 13.5 shall survive any termination, cancellation, expiration or suspension of this Agreement.

13.6. Limitation on Damages.

NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, PUNITIVE, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS OR REVENUES, BUSINESS INTERRUPTION

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DAMAGES AND LOST BUSINESS OPPORTUNITIES), WHETHER ARISING FROM CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, STATUTE OR OTHERWISE, RELATED TO, ARISING OUT OF, OR RESULTING FROM PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT.

Section 14. Default, Remedies and Termination**14.1. Default and Termination.**

(a) If either Party is at any time in material breach of or default under this Agreement (the "Defaulting Party"), the other Party (the "Terminating Party") shall have the right to terminate this Agreement by giving the Defaulting Party written notice of such termination. Such termination of this Agreement shall be effective upon the Defaulting Party's receipt of such notice of such termination pursuant to this Section 14.1(a). For purposes of this Section 14.1(a), a Party shall be deemed to be in material breach of or default under this Agreement if such Party:

(i) fails to cure any material breach of or default under this Agreement by such Party prior to the later of (i) the expiration of sixty (60) days after the Terminating Party gives the Defaulting Party written notice of the breach or default, or (ii) the date upon which the Terminating Party gives the Defaulting Party written notice of termination; provided that, without limiting the generality of Section 14.2, either Party's right to terminate this Agreement pursuant to this Section 14.1(a)(i) is in addition to, and shall not preclude the exercise of, any other rights and remedies provided under this Agreement or at law or in equity;

(ii) is unable to meet its obligations as they become due or such Party's liabilities exceed its assets;

(iii) makes a general assignment of all or substantially all of its assets for the benefit of its creditors, files a petition for bankruptcy or reorganization or seeks other relief under any applicable insolvency laws; or

(iv) has filed against it a petition for bankruptcy, reorganization or other relief under any applicable insolvency laws and such petition is not dismissed within sixty (60) days after it is filed.

(b) PSE shall have the right to terminate this Agreement by giving Seller written notice of such termination (and such termination shall be effective upon

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Seller's receipt of such notice of such termination) following the occurrence of any of the following events:

- (i) The Facility fails to achieve commercial operation within three (3) years of the Effective Date.
- (ii) The Facility fails to maintain its QF Status.
- (iii) Seller fails to overcome or remedy within one (1) year following the commencement of any Excusable Delay occurring on or after the commencement date the event, cause or condition that gave rise to such Excusable Delay; or
- (iv) Seller's business is suspended, dissolved or wound up.

In no event shall PSE incur any liability (whether for lost revenues or lost profits or otherwise) as a result of any termination of this Agreement pursuant to this Section 14.1.

14.2. Rights and Remedies Cumulative.

All rights and remedies of either Party under this Agreement and at law and in equity shall be cumulative and not mutually exclusive and the exercise of one right or remedy shall not be deemed a waiver of any other right or remedy. Nothing contained in any provision of this Agreement shall be construed to limit or exclude any right or remedy of either Party (arising on account of the breach or default by the other Party or otherwise) now or hereafter existing under any other provision of this Agreement, at law or in equity.

Section 15. Miscellaneous**15.1. Notices.**

Except as may be expressly provided otherwise in this Agreement, any notice, request, authorization, direction, or other communication under this Agreement shall be given in writing and shall be delivered in person or by first-class U.S. mail (stamped with the required postage), properly addressed to the intended recipient as follows:

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If to PSE:

In-Person Delivery:

Puget Sound Energy
Attn: Senior Vice President
of Policy and Energy Supply
10885 N.E. Fourth Street
Bellevue, WA 98004

Mail Delivery:

Puget Sound Energy
Attn: Senior Vice President
of Policy and Energy Supply
P.O. Box 97034
Bellevue, WA 98009-9734

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If to Seller:

[Name of Seller]

[Address]

Either Party may change its address specified above by giving the other Party notice of such change in accordance with this Section 15.1.

15.2. Governmental Authority.

This Agreement is subject to the rules, regulations, orders and other requirements, now or hereafter in effect, of all governmental authorities (including, without limitation, the WUTC) having jurisdiction over the Facility, this Agreement, the Parties or either of them. All laws, ordinances, rules, regulations, orders and other requirements, now or hereafter in effect, of governmental authorities that are required to be incorporated in agreements of this character are by this reference incorporated in this Agreement. This Agreement is subject to the General Rules and Provisions set forth in Schedule 80 of PSE's Electric Tariff G, as revised from time to time and approved by the WUTC. This Agreement is also subject to Schedule 91 of PSE's Electric Tariff G, as revised from time to time and as approved by the WUTC, except that the price set forth in Section 3.3 hereof shall control for the Operating Period. Any conflict between this Agreement and applicable provisions of PSE's Electric Tariff G shall be resolved in favor of such tariff provisions, except for the price set forth in Section 3.3 of this Agreement.

15.3. No Partnership.

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties or to impose any partnership obligations or liability upon either Party. Further, neither Party shall have any right, power or authority to enter into any agreement or undertaking for or on behalf of, to act as or be an agent or representative of, or to otherwise bind the other Party.

15.4. Non-waiver.

No failure or delay of either Party to insist upon or enforce strict performance by the other Party of any provision of this Agreement or to exercise any other right under this Agreement, and no course of dealing or performance with respect thereto, shall be construed as a waiver or relinquishment to any extent of such Party's right to assert or rely upon any such provision or right in that or any other instance; rather, the same shall be and remain in full force and effect. The express waiver by either Party

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of any right or remedy under this Agreement in a particular instance or circumstance must be in writing and shall not constitute a waiver thereof in any other instance or circumstance.

15.5. Survival.

Sections 4.3, 13.1, 7.1, and Section 8, and all other provisions of this Agreement which may reasonably be interpreted or construed as surviving the completion, termination or cancellation of this Agreement, shall survive the completion, termination or cancellation of this Agreement.

15.6. Entire Agreement.

This Agreement sets forth the entire agreement, and supersedes any and all prior agreements of the Parties, whether written or oral, with respect to the subject matters hereof. By executing this Agreement, Seller releases PSE from any third party claims related to the Facility, known or unknown, which may have arisen prior to the Effective Date.

15.7. Successors and Assigns.

Subject to the foregoing restrictions, this Agreement shall be fully binding upon, inure to the benefit of and be enforceable by the Parties and their respective successors, assigns and legal representatives.

15.8. No Unspecified Third-Party Beneficiaries.

Except as specifically provided in this Agreement (e.g., in Sections 13.1 and 13.2), there are no third-party beneficiaries of this Agreement. Nothing contained in this Agreement is intended to confer any right or interest on anyone other than the Parties, their respective successors, assigns and legal representatives permitted under Section 15.7, and the third-party beneficiaries specifically identified in this Agreement.

15.9. Amendment.

No change, amendment or modification of any provision of this Agreement or of any exhibit to this Agreement shall be valid unless set forth hereafter in a written amendment to this Agreement or such exhibit signed by both Parties.

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15.10. Implementation.

Each Party shall take such action (including, but not limited to, the execution, acknowledgment and delivery of documents) as may reasonably be requested by the other Party for the implementation or continuing performance of this Agreement.

15.11. Invalid Provision; Continuing Validity.

The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted. Neither the validity of this Agreement nor the respective rights and obligations of the Parties under this Agreement shall be affected to any extent if Seller ceases to be a customer of PSE during the Operating Period.

15.12. Applicable Law.

This Agreement shall in all respects be interpreted, construed and enforced in accordance with the laws of the State of Washington (without reference to rules governing conflicts of law), except to the extent such laws may be preempted by the laws of the United States of America.

IN WITNESS WHEREOF each of the Parties has caused this Agreement to be duly executed by its authorized representative as of the date first set forth above.

Puget Sound Energy

By _____
David E. Mills
Senior Vice President, Policy and Energy Supply

[Name of Seller]

By _____
Its _____

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Exhibit A

Diagram – Point of Delivery

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Exhibit B

Electrical Diagram of the Facility

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Exhibit C

Operational Permits

Exhibit C shall be completed by Seller prior to the Commencement Date. Signatures of both Parties shall be required when complete; provided, however, that PSE shall not unreasonably refuse to consent to the figures provided by Seller.

Signatures required when complete.

Seller:

PSE:

Name: _____

Title: _____

Date: _____

Name: _____

Title: _____

Date: _____

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Exhibit D

Expected Annual Net Output

Exhibit D shall be completed by Seller prior to the Commencement Date. Signatures of both Parties shall be required when complete; provided, however, that PSE shall not unreasonably refuse to consent to the figures provided by Seller.

Year of Operating Period	Expected Annual Net Output
Year 1:	_____ MWh
Year 2:	_____ MWh
Year 3:	_____ MWh
Year 4:	_____ MWh
Year 5:	_____ MWh
Year 6 (if applicable):	_____ MWh

Signatures required when complete.

Seller:

PSE:

Name: _____
Title: _____
Date: _____

Name: _____
Title: _____
Date: _____

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Exhibit E

Schedule 91 and Monthly Net Output Calculation