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UTILITIES COMMISSION

December 5, 2006

AVU-E-06-10

Ms. Jean Jewell, Commission Secretary  
Idaho Public Utilities Commission  
472 West Washington  
Boise, ID 83702

RE: *Joint Petition of Stimson Lumber Company and Avista Corporation*

Dear Ms. Jewell:

Please find enclosed for filing the original and seven (7) copies of the Joint Petition of Stimson Lumber Company and Avista Corporation. Please conform and return the additional copy in the enclosed self-addressed stamped enveloped.

Very truly yours,

PAINE, HAMBLÉN, COFFIN, BROOKE  
& MILLER LLC



Terry L. York  
Paralegal for R. Blair Strong

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Enclosures

cc: David J. Meyer (w/enc.)  
William E. Peressini (w/enc.)

**For Avista Corporation**  
DAVID J. MEYER  
VICE PRESIDENT, CHIEF COUNSEL FOR REGULATORY  
AND GOVERNMENTAL AFFAIRS  
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**For Stimson Lumber Company**  
WILLIAM E. PERESSINI  
VICE PRESIDENT AND CHIEF FINANCIAL OFFICER  
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TELEPHONE: (503) 222-1676  
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**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF THE JOINT  
PETITION OF AVISTA CORPORATION  
AND STIMSON LUMBER COMPANY  
FOR APPROVAL OF A POWER  
PURCHASE AND SALE AGREEMENT

CASE NO. AVU-E-06-10  
JOINT PETITION OF STIMSON  
LUMBER COMPANY AND AVISTA  
CORPORATION

Avista Corporation ("Avista") and Stimson Lumber Company ("Stimson")  
(Avista and Stimson are referred to collectively as the "Parties") hereby petition the Idaho  
Public Utilities Commission ("Commission" or "IPUC") for an order approving the  
Power Purchase Agreement between Stimson Lumber Company and Avista Corporation  
effective October 1, 2006 ("Agreement") which is attached hereto. In support of this  
Petition, the Parties state as follows:

1. Avista is a corporation created and organized under the laws of the State  
of Washington with its principal office in Spokane, Washington. Avista is an investor-

owned utility principally engaged in the business of providing electric and natural gas service in the states of Idaho and Washington.

2. Stimson is a corporation organized under the laws of the State of Oregon that operates a thermal wood waste small power electric generation plant, at Plummer, Idaho (hereinafter referred to as the "Facility").

3. Stimson's Facility is capable of generating up to approximately 6.5 megawatts of energy. The Facility is a Qualifying Facility ("QF") pursuant to the Public Utility Regulatory Policies Act of 1978, Pub. L. No. 95-617, 92 Stat. 3117 (1978) ("PURPA") and 18 C.F.R. Part 292 (2003).

4. The Facility was previously owned and operated by HaleyWest LLC. HaleyWest, LLC has assigned all of its rights to own and operate the Facility to Stimson. Stimson has assumed HaleyWest LLC's obligations under a power sale and purchase agreement between Avista and HaleyWest LLC that expired under its own terms on September 30, 2006.

5. Stimson and Avista both desired that energy deliveries from the Facility to Avista continue without interruption following termination of the HaleyWest LLC agreement.

6. The Parties reached agreement on a power purchase and sale agreement commencing October 1, 2006 to continue purchases and sales from the Facility. In summary, the essential terms of the Agreement are as follows:

- (a) The Purchase and Sale Agreement is for a term of five (5) years, unless terminated earlier by terms and conditions contained in the Agreement.

(b) The Agreement shall terminate if the Commission determines that the prices to be paid for electric power are not just and reasonable, in the public interest, and that the costs incurred by Avista for purchases of electric power from Seller are legitimate expenses.

(c) The Agreement includes an Interconnection Agreement, separately negotiated by Avista Transmission Services. The Interconnection Agreement is attached as Exhibit C to the Agreement.

d) Avista will be the sole purchaser of Stimson's generation. For all Net Delivered Output received by Avista that is not Surplus Energy, Avista shall pay prices at Avoided Cost Rates For Non-Fueled Projects Smaller Than Ten Megawatts -Non-Levelized, which are set forth in Section 11.1.1 of the Agreement.

(e) For all Surplus Energy received by Avista, Avista shall pay to the current month's Market Energy Cost per megawatt-hour or the Net Delivered Output Purchase Price specified in Section 11.1.1, whichever is lower.

(f) The petitioners are not requesting retroactive approval of the Agreement. In order to allow for the continuous operation of the Facility, the Agreement allows for energy deliveries and payments by Avista to Stimson at the scheduled avoided cost rate effective October 1, 2006. In the event the Commission does not approve the Agreement by January 30, 2007, or approves it subject to conditions unacceptable to the Parties, the Agreement will terminate. In such event, Stimson shall refund certain amounts to Avista. Pursuant to Section 5.4 of the Agreement, the refund amount for each month shall be equal to

the amount previously paid by Avista for electric power received by Avista during such month, less the arithmetic product that is obtained by multiplying the number of megawatt-hours during such month for which Avista has paid, by the lesser of: (i) the Net Delivered Output Cost set forth in Section 11.1 for such month, or (ii) the Market Energy Cost for such month.

7. Communications respecting this matter should be addressed to:

**FOR AVISTA:**

**David J. Meyer**

Vice President, Chief Counsel For Regulatory  
and Governmental Affairs

Avista Corporation

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Telephone: (509) 495-4316

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**Kelly O. Norwood**

Vice President, State and Federal Regulation

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**FOR STIMSON:**

**William E. Peressini**

Vice President and Chief Financial Officer

Stimson Lumber Company

520 S.W. Yamhill, Suite 700

Portland, Oregon 97204-1330

Phone: (503) 222 1676

Fax: (503) 222 2682

**WHEREFORE**, Avista and Stimson respectfully request that the Commission issue an order approving the Agreement, including provisions:

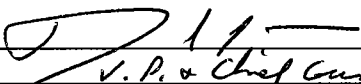
(1) approving the Agreement and the Interconnection Agreement; and  
(2) allowing deferral and recovery of all power purchase costs subject to Avista's Idaho Power Cost Adjustment ("PCA") or as otherwise recovered by Avista through base rates, and declaring that prices to be paid for energy and capacity are just and reasonable, in the public interest, and that the costs incurred by Avista for purchasing capacity and energy from Stimson are legitimate expenses.

(3) approving the Agreement as satisfaction of the entirety of Avista's obligations under PURPA with regard to the Facility.

**THE PARTIES FURTHER REQUEST** that the Commission consider this joint petition in accordance with Rule 201, et seq. allowing for disposition by Modified Procedure. IDAPA 31.01.01.201 et seq.

Respectfully submitted this 4<sup>th</sup> day of December, 2006.

**AVISTA CORPORATION**

By   
Its V.P. & Chief Counsel for Reg/Gen'l Affairs  
Date 12/4/06

**STIMSON LUMBER COMPANY**

By \_\_\_\_\_  
Its \_\_\_\_\_  
Date \_\_\_\_\_

(1) approving the Agreement and the Interconnection Agreement; and  
(2) allowing deferral and recovery of all power purchase costs subject to Avista's Idaho Power Cost Adjustment ("PCA") or as otherwise recovered by Avista through base rates, and declaring that prices to be paid for energy and capacity are just and reasonable, in the public interest, and that the costs incurred by Avista for purchasing capacity and energy from Stimson are legitimate expenses.

(3) approving the Agreement as satisfaction of the entirety of Avista's obligations under PURPA with regard to the Facility.

**THE PARTIES FURTHER REQUEST** that the Commission consider this joint petition in accordance with Rule 201, et seq. allowing for disposition by Modified Procedure. IDAPA 31.01.01.201 et seq

Respectfully submitted this \_\_\_\_ day of December, 2006

**AVISTA CORPORATION**

By \_\_\_\_\_  
Its \_\_\_\_\_  
Date \_\_\_\_\_

**STIMSON LUMBER COMPANY**

By W.E. Perennin  
Its VP/CEO  
Date 12/4/06

**CERTIFICATE OF SERVICE**

I hereby certify that on this 5<sup>th</sup> day of December, 2006, the *Joint Petition of Stimson Lumber Company and Avista Corporation* was sent to the following parties as shown:

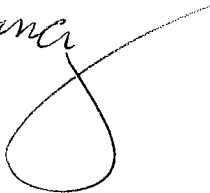
Jean Jewell  
Commission Secretary  
Idaho Public Utilities Commission  
472 West Washington  
Boise, Idaho 83702  
[jjewell@puc.state.id.us](mailto:jjewell@puc.state.id.us)

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile
- Electronic Mail

Scott Woodbury  
Idaho Public Utilities Commission  
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- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile
- Electronic Mail

R. Blair Strong  
R. Blair Strong



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AVU-E-06-10

**POWER PURCHASE AGREEMENT**

**BETWEEN**

**STIMSON LUMBER COMPANY**

**AND**

**AVISTA CORPORATION**

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	<b>Exhibit A</b> <b>Communication and Reporting</b>	
	<b>Exhibit B</b> <b>Form of Engineer's Certification of Operations and Maintenance Policy</b>	
	<b>Exhibit C</b> <b>Interconnection Agreement</b>	
	<b>Exhibit D</b> <b>Description of the Facility</b>	

This Agreement, effective October 1, 2006, is made by and between Avista Corporation, a Washington corporation ("Avista"), and Stimson Lumber Company ("Project Developer"). Avista and Project Developer are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

**WITNESSETH:**

**WHEREAS**, Project Developer plans to operate a 6.5 MW electric generating unit(s) ("Facility") at Plummer, Idaho; and

**WHEREAS**, Project Developer has obtained from the Coeur d'Alene Tribe of Indians the right and authority to operate the Facility; and

**WHEREAS**, Project Developer has been assigned, by HaleyWest, LLC ("HaleyWest") all of HaleyWest's rights to own and operate the Facility;

**WHEREAS**, the Facility may produce power from time to time which is in excess to Project Developer's needs and which Project Developer desires to sell to Avista,

**WHEREAS**, HaleyWest and Avista are parties to an agreement pursuant to which Avista purchases the output of the Facility, which agreement expires by its own terms on September 30, 2006;

**WHEREAS**, the Facility is connected in a manner such that parallel operation with Avista's electrical system occurs;

**WHEREAS**, Avista and Project Developer are parties to the Interconnection Agreement, which is set forth at Exhibit C, herein, and incorporated as a part of this Agreement;

**WHEREAS**, Project Developer desires to sell and Avista desires to purchase power from the Facility subject to approval of the Idaho Public Utilities Commission;

**WHEREAS**, Project Developer is or shall be a Qualifying Facility within the meaning of the Public Utility Regulatory Policies Act of 1978 and the rules and regulations thereunder;

**WHEREAS**, Avista is obligated under the Public Utility Regulatory Policies Act of 1978 and the rules and regulations of the IPUC to purchase power from Qualifying Facilities;

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows.

1. **DEFINITIONS**

Whenever used in this Agreement and exhibits hereto, the following terms shall have the following meanings:

1.1 "Agreement" means this Power Purchase Agreement, including all exhibits, and any written amendments.

1.2 "aMW" means average MW.

1.3 "Avista", "Project Developer", "Party" and "Parties" shall have their respective meanings set forth above.

1.4 "Facility" means the electric generating facilities, including all equipment and structures necessary to generate and supply power, more particularly described at Exhibit D (Description of the Facility).

1.5 "Facility Service Power" means the electric power used by the Facility during its operation for facility service power, including, but not necessarily limited to pumping, generator excitation, cooling or otherwise related to the production of electricity by the Facility.

1.6 "FERC" means the Federal Energy Regulatory Commission.

1.7 "Independent Engineering Certification" means certifications provided by a professional engineer registered in Washington or Idaho, who has no direct or indirect, legal or equitable, ownership interest in the Facility.

1.8 "Interconnection Agreement" The Generation Interconnection Agreement by which Net Delivered Output may be delivered into the transmission system of Avista at the Point of Delivery during the term of this Agreement. The Interconnection Agreement is set forth in full at Exhibit C.

1.9 "Interconnection Facilities" means all facilities required to interconnect the Facility for delivery of Net Delivered Output to the Avista transmission system including connection, transformation, switching, relaying and safety equipment. Interconnection Facilities shall also include all telemetry, metering, cellular telephone, and/or communication equipment required under this Agreement regardless of location.

1.10 "IPUC" means the Idaho Public Utilities Commission or its successor.

1.11 "MW" means megawatt. One thousand kilowatts equals one megawatt.

1.12 "Market Energy Cost" means eighty-five percent (85%) of the weighted average of the daily On-Peak and Off-Peak Dow Jones Mid-Columbia Index (Dow Jones Mid-C Index) prices for firm energy. If the Dow Jones Mid-Columbia Index price is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the Dow Jones Mid-C Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electric industry.

1.13 "**Net Delivered Output**" means all electric energy generated by the Facility, net of Facility Service Power.

1.14 "**Net Delivered Output Cost**" means the rate in dollars per megawatt-hour, to be paid by Avista for all Net Delivered Output, subject to any limitations under this Agreement. The Net Delivered Output Cost is specified in Section 11.1.

1.15 "**Off-Peak**" means all hours other than On-Peak hours.

1.16 "**On-Peak**" means the hours ending 0700 through 2200 Pacific Prevailing time, Monday through Sunday, including NERC holidays.

1.17 "**Operating Year**" means each 12-month period from January 1 through December 31.

1.18 "**Operation Date**" means the later of October 1, 2006 or the day following the day that Avista has verified that Project Developer has fulfilled all of the conditions required by Sections 3 and 4, of the Agreement.

1.19 "**Point of Delivery**" means the location where the Facility is electrically interconnected with Avista's transmission system.

1.20 "**Prudent Utility Practices**" means the practices, methods, and acts, including but not limited to practices, methods, and acts engaged in or approved by a significant portion of the electric power generation and transmission industry, in the exercise of reasonable judgment in the light of the facts known or that should have been known at the time a decision was made, that would have been expected to accomplish the desired result in a manner consistent with law, regulation, reliability, safety, environmental protection, economy, and expedition.

1.21 "**Scheduled Outage**" means any outage which is scheduled by the Project Developer to remove electrical or mechanical equipment from service for repair, replacement, maintenance, safety or any other reason, and which thereby limits the generating capability of the Facility to less than its full tested capability.

1.22 "**Surplus Energy**" means: (1) Net Delivered Output produced by the Project Developer's Facility and delivered to the Avista electrical system during the month which exceeds 110% of the monthly Net Delivered Output estimate for the corresponding month specified in Section 6.3; (2) If the Net Delivered Output produced by the Project Developer's Facility and delivered to the Avista electrical system during the month is less than 90% of the monthly Net Delivered Output estimate for the corresponding month specified in Section 6.3, then all Net Delivered Output delivered by the Facility to the Avista electrical system for that given month, or (3) All Net Delivered Output produced by the Project Developer's Facility and delivered by the Facility to the Avista electric system prior to the Operation Date. For clarification, Net Delivered Output that is Surplus Energy pursuant to this definition shall be sold to Avista at the price set forth in Section 11.2.

1.23 **"Surplus Energy Cost"** means the rate in dollars per megawatt-hour, to be paid by Avista for all Surplus Energy, subject to any limitations under this Agreement. The Surplus Energy Cost is specified in Section 11.2.

## 2. **NO RELIANCE ON AVISTA**

2.1 **Project Developer Independent Investigation.** Project Developer warrants and represents to Avista that in entering into this Agreement and the undertaking by Project Developer of the obligations set forth herein, Project Developer has investigated and determined that it is capable of performing hereunder and has not relied upon the advice, experience or expertise of Avista in connection with the transactions contemplated by this Agreement.

2.2 **Project Developer Experts.** All professionals or experts including, but not limited to, engineers, attorneys or accountants, that Project Developer may have consulted or relied on in undertaking the transactions contemplated by this Agreement have been solely those of Project Developer.

## 3. **WARRANTIES**

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

3.2 **Qualifying Facility Status.** Project Developer warrants that the Facility is a "Qualifying Facility", as that term is used and defined in 18 CFR §292.207. After initial qualification, Project Developer shall take such steps as may be required to adequately maintain the Facility's Qualifying Facility status during the term of this Agreement and Project Developer's failure to adequately maintain Qualifying Facility status will be a material breach of this Agreement. Avista reserves the right to review the Project Developer's Qualifying Facility status and associated support and compliance documents at any time during the term of this Agreement.

## 4. **CONDITIONS PRIOR TO OPERATION DATE**

Prior to the Operation Date, the following actions must have occurred:

4.1 **Licenses, Permits and Approvals.** Project Developer shall have submitted proof to Avista that all licenses, permits or approvals necessary for Project Developer's operations have been obtained from applicable federal, state, tribal or local authorities, including, but not limited to, evidence of compliance with Subpart B, 18 CFR 292.207. Licenses, Permits and Approvals shall

include but shall not be limited to tribal, state and local Business Licenses, environmental permits approvals for fuel storage, water rights, and other necessary property owner easements and leases.

**4.2 Opinion of Counsel.** Project Developer shall have submitted to Avista an Opinion Letter signed by an attorney admitted to practice and in good standing in the State of Idaho, or Washington providing an opinion that Project Developer's licenses, permits and approvals as set forth in Section 4.1 above are legally and validly issued, are held in the name of the Project Developer, and based on a reasonable independent review, counsel is of the opinion that Project Developer is in substantial compliance with said permits as of the date of the Opinion Letter. The Opinion will be in a form acceptable to Avista and will acknowledge that the attorney rendering the opinion understands that Avista is relying on said opinion. Avista's acceptance of the form shall not be unreasonably withheld. The Opinion Letter will be governed by and shall be interpreted in accordance with the legal opinion accord of the American Bar Association Section of Business Law (1991).

**4.3 Security.** Project Developer shall have complied with Section 7, Security.

**4.4 Written Acceptance.** Project Developer shall have obtained written confirmation from Avista that all conditions to acceptance of electric energy have been fulfilled. Such written confirmation shall not be unreasonably withheld by Avista.

**4.5 Initial Year Monthly Net Delivered Output Amounts.** Project Developer shall have provided to Avista the Initial Year Monthly Net Delivered Output Estimates in accordance with Section 6.3.1.

## **5. TERM OF AGREEMENT**

**5.1** Subject to the provisions of this Section 5, this Agreement shall be effective at 0000 hours on October 1, 2006 ("Effective Date"), provided the Agreement is executed by the Parties on or prior to the October 1, 2006. In the event this Agreement is executed by the Parties subsequent to October 1, 2006, the Effective Date will be deemed to be the date upon which the Agreement will have been executed by both Parties. Power purchases pursuant to this Agreement shall commence upon the Effective Date.

**5.2** Project Developer and Avista shall jointly petition the IPUC for an order approving the Agreement. This Agreement is conditioned upon the approval and determination by the IPUC that the prices to be paid for electric power are just and reasonable, in the public interest, and that the costs incurred by Avista for purchases of electric power from Seller are legitimate expenses.

**5.3** In the event that the IPUC fails to issue a final order approving this Agreement by January 30, 2007, neither Party shall have any further obligations to purchase or sell electric power hereunder, and this Agreement shall terminate on January 30, 2007.

5.4 In the event that this Agreement is terminated pursuant to Sections 5.2 or 5.3, except as otherwise provided, the Project Developer shall refund amounts to Avista. The refund amount for each month shall be equal to the amount previously paid by Avista for electric power received by Avista during such month, less the arithmetic product that is obtained by multiplying the number of megawatt-hours during such month for which Avista has paid, by the lesser of: (i) the Net Delivered Output Cost set forth in Section 11.1 for such month, or (ii) the Market Energy Cost for such month. In the event that Avista has not paid for electric power delivered by Project Developer before this Agreement is terminated pursuant to Sections 5.2 or 5.3, Avista shall pay for such power at the lesser of: (i) the Net Delivered Output Cost set forth in Section 11.1 for such month, or (ii) the Market Energy Cost for such month.

5.5 The term of the Agreement shall be for 5 years following the Operation Date, unless terminated earlier by terms and conditions contained herein.

5.6 Unless excused by Force Majeure, Avista may terminate this Agreement on thirty (30) days prior written notice if, in any two (2) consecutive Operating Years, Project Developer fails to deliver Net Delivered Output equal to 42,048 megawatt-hours.

## 6. PURCHASE AND SALE OF POWER

6.1 Project Developer shall sell and deliver to the Point of Delivery and Avista shall purchase all Net Delivered Output.

6.2 The Facility is designed, and the Project Developer shall operate the Facility in a manner such that the hourly scheduled amount of Net Delivered Output does not exceed 6.5 MW in any hour. Avista shall have the right, but not the obligation, to purchase any Net Delivered Output from the Facility in excess of 6.5 MW in any hour. The maximum annual amount of electric power that Avista is obligated to purchase hereunder shall be 56,940 megawatt-hours in any Operating Year which is a non-Leap Year, or 57,096 megawatt-hours in any Operating Year which is a Leap Year.

### 6.3 Net Delivered Output Amounts.

6.3.1 Initial Net Delivered Output Estimates. Project Developer shall provide to Avista Net Delivered Output estimates for each of the twelve consecutive months that begin with the month containing the Operation Date, counting the month during which the Operation Date occurs as month one (Initial Year Monthly Net Delivered Output Estimates). Project Developer shall provide to Avista such Initial Year Monthly Net Delivered Output Estimates by written notice in accordance with Section 29 no later than five (5) calendar days prior to the Operation Date.

6.3.2 Subsequent Monthly Net Delivered Output Estimates. At the end of month nine following the Operation Date, and at the end of every third month thereafter, Project Developer shall provide to Avista Net Delivered Output estimates pertaining to each of the additional consecutive three months for which Project Developer has not yet



delivered to Avista Net Delivered Output estimates, so that Project Developer shall have provided in advance on a rolling basis to Avista six months of Net Delivered Output estimates. Project Developer shall provide such Net Delivered Output estimates to Avista by written notice in accordance with Section 29, no later than 5:00 p.m. of the last business day of the month during which they are required to be provided.

**6.3.3 Content of Net Delivered Output Estimates.** All Net Delivered Output estimates shall be expressed in kilowatt-hours by month.

**6.3.4 Failure to Provide Net Delivered Output Estimates.** If the Project Developer fails to provide to Avista Net Delivered Output estimates when required herein pertaining to any month or months, Avista shall determine the Net Delivered Output estimates pertaining to such month or months, and the Net Delivered Output estimates shall be binding for purposes of the Agreement as though they were prepared by Project Developer and provided to Avista as required by the Agreement.

**6.3.5 Project Developer's Revisions of Net Delivered Output Estimates.** At the end of month three following the Operation Date, and at the end of every third month thereafter, counting the month during which the Operation Date occurs as month one, Project Developer may provide Avista with revisions to Net Delivered Output estimates previously provided to Avista, except Project Developer may not revise Net Delivered Output estimates that pertain to the three consecutive months that immediately follow the month during which Project Developer provides Avista notice of the revisions. If Project Developer elects to revise Net Delivered Output estimates previously provided to Avista, then Project Developer must provide to Avista the revised Net Delivered Output estimates by written notice in accordance with Section 29, no later than 5:00 p.m. of the last business day of the month during which they are required to be provided.

**6.3.6 Avista Adjustment of Net Delivered Output Estimate.** If Avista is excused from accepting the Project Developer's Net Delivered Output as specified in Section 9.2 or if the Project Developer declares a Suspension of Energy Deliveries as specified in Section 9.3 and the Project Developer declared Suspension of Energy Deliveries is accepted by Avista, the Net Delivered Output estimate as specified in Section 6.3.1 for the specific month in which the reduction or suspension under Section 9.2 or 9.3 occurs will be reduced in accordance with the following:

Where:

---

- NDO = Current Month's Net Delivered Output estimate
- SGU = (a) If Avista is excused from accepting the Project Developer's Net Delivered Output as specified in Section 9.2 this value will be equal to the percentage of curtailment as specified by Avista multiplied by the TGU as defined below.
- (b) If the Project Developer declares a Suspension of Net Delivered Output as specified in Section 9.3 this value will be the generation unit size rating of 6.5 MW.

TGU = Generation unit size rating of 6.5 MW,  
 RSH = Actual hours the Facility's Net Delivered Output was either reduced or suspended under Sections 9.2 or 9.3.  
 TH = Actual total hours in the current month

Resulting formula being:

$$\text{Adjusted Net Delivered Output} = \text{NDO} - \left( \left( \frac{\text{SGU}}{\text{TGU}} \times \text{NDO} \right) \times \left( \frac{\text{RSH}}{\text{TH}} \right) \right)$$

This Adjusted Net Delivered Output estimate will be used in applicable Surplus Energy calculations for only the specific month in which Avista was excused from accepting the Net Delivered Output or the Project Developer declared a Suspension of Energy

**7. SECURITY**

7.1 Business Insurance. Prior to operating the Facility, Project Developer shall obtain and maintain insurance coverage of all of the following types with limits as shown:

<u>Type</u>	<u>Minimum Coverage Limits</u>	<u>Maximum Deductible</u>
Liability	\$1 million, per occurrence	Consistent with current insurance utility practices for a similar property

7.1.1 Commercial general liability insurance for bodily injury and property damage with limits equal to \$1,000,000 for each occurrence, combined single limit. The deductible for such insurance shall be consistent with current insurance utility practices for a similar property.

7.1.2 The form of all insurance policies, and the insurance companies issuing the policies shall be acceptable to Avista, provided however, that any approval by Avista shall not be unreasonably withheld, and must have an A.M. Best rating of A- or better. Project Developer shall provide copies of all insurance policies to Avista as proof of insurance. All insurance policies required to fulfill the requirements of this Section 7.1 shall include language requiring that any notice of cancellation or notice of change in policy terms be sent to Avista by the insurance carrier(s) at least sixty (60) days prior to any change or termination of the policies.

**7.2 Engineering Certifications.** Project Developer shall obtain and provide to Avista Independent Engineering Certifications as to the adequacy of the Operations and Maintenance Policy substantially in the form as shown in Exhibit B within sixty (60) days after the Effective Date. Failure to provide such documentation shall be deemed to be a default under Section 16.1.

**8. CURTAILMENT, INTERRUPTION OR REDUCTION OF DELIVERY**

Avista may require Project Developer to curtail, interrupt or reduce delivery of Net Delivered Output if, in accordance with Section 9.2, Avista determines that curtailment, interruption or reduction is necessary because of force majeure or to protect persons and property from injury or damage, or because of emergencies, necessary system maintenance, system modification or special operating circumstances. Avista shall use its reasonable efforts to keep any period of curtailment, interruption, or reduction to a minimum. In order not to interfere unreasonably with Project Developer operations, Avista shall give Project Developer reasonable prior notice of any curtailment, interruption, or reduction, the reason for its occurrence and its probable duration.

**9. OPERATION**

**9.1 Communications and Reporting.** Avista and the Project Developer shall maintain appropriate operating communications through Avista's Designated Dispatch Facility in accordance with Exhibit A of this Agreement.

**9.2 Excuse From Acceptance of Delivery of Power.**

**9.2.1** Avista may interrupt, suspend or curtail delivery, receipt or acceptance of delivery of power if Avista reasonably determines consistent with Prudent Utility Practice that the failure to do so:

**9.2.1.1** May endanger any person or property, or Avista's electric system, or any electric system with which Avista's system is interconnected;

**9.2.1.2** May cause, or contribute to, an imminent significant disruption of electric service to Avista's or another utility's customers;

**9.2.1.3** May interfere with any construction, installation, inspection, testing, repair, replacement, improvement, alteration, modification, operation, use or maintenance of, or addition to, Avista's electric system or other property of Avista.

**9.2.2** Avista shall promptly notify Project Developer of the reasons for any such interruption, suspension or curtailment provided for in Section 9.2.1, above. Avista shall use reasonable efforts to limit the duration of any such disconnection, interruption, suspension or curtailment.

**9.3 Project Developer Declared Suspension of Energy Deliveries.**

**9.3.1** If the Project Developer's Facility experiences a forced outage due to equipment failure which is not caused by an event of force majeure or by neglect, disrepair or lack of adequate preventative maintenance of the Project Developer's Facility, Project Developer may, after giving notice as provided in Section 9.3.2 below, temporarily suspend all deliveries of Net Delivered Energy to Avista from the Facility for from individual generation unit(s) within the Facility impacted by the forced outage for a period of not less than 48 hours to correct the forced outage condition ("Declared Suspension of Energy Deliveries"). The Project Developer's Declared Suspension of Energy Deliveries will begin at the start of the next full hour following the Project Developer's telephone notification as specified in Section 9.3.2 and will continue for the time as specified (not less than 48 hours) in the written notification provided by the Project Developer. In the month(s) in which the Declared Suspension of Energy occurred, the Net Delivered Energy Amount will be adjusted as specified in Section 6.3.5.

**9.3.2** If the Project Developer desires to initiate a Declared Suspension of Energy Deliveries as provided in Section 9.3.1, the Project Developer shall notify the Designated Dispatch Facility by telephone. The beginning hour of the Declared Suspension of Energy Deliveries will be at the earliest the next full hour after making telephone contact with Avista. The Project Developer shall, within 24 hours after the telephone contact, provide Avista a written notice in accordance with Section 29 that will contain the beginning hour and duration of the Declared Suspension of Energy Deliveries and a description of the conditions that caused the Project Developer to initiate a Declared Suspension of Energy Deliveries. Avista shall review the documentation provided by the Project Developer to determine Avista's acceptance of the described forced outage as qualifying for a Declared Suspension of Energy Deliveries as specified in Section 9.3.1. Avista's acceptance of the Project Developer's forced outage as an acceptable forced outage will be based upon the clear documentation provided by the Project Developer that the forced outage is not due to an event of Force Majeure or by neglect, disrepair or lack of adequate preventative maintenance of the Project Developer's Facility.

**9.4 Scheduled Maintenance.** On or before January 31 of each calendar year, Project Developer shall submit a written proposed maintenance schedule of significant Facility maintenance for that calendar year and Avista and Project Developer shall mutually agree as to the acceptability of the proposed schedule. The Parties determination as to the acceptability of the Project Developer's timetable for scheduled maintenance shall take into consideration Prudent Utility Practices, Avista system requirements and the Project Developer's preferred schedule. Neither Party shall unreasonably withhold acceptance of the proposed maintenance schedule. The Parties shall cooperate in determining mutually acceptable Facility down times or maintenance shutdowns.

**9.5 Compliance with Permits, Licenses, Authorizations and Other Rights.** Project Developer shall obtain and comply with all permits, licenses, authorizations and other rights required to own, operate, use and maintain the Facility, as they may change from time to time.

Project Developer shall furnish to Avista on request, copies of all documents granting, evidencing or otherwise related to such permits, licenses, authorizations and rights.

**9.6 Project Developer's Risk.** Project Developer shall own, operate, use and maintain the Facility at its own risk and expense in compliance with all applicable laws, ordinances, rules, regulations, orders and other requirements, now or hereafter in effect, of any governmental authority.

**9.7 Avista Right to Inspect.** Project Developer shall permit Avista to inspect the Facility or the operation, use or maintenance of the Facility. Project Developer shall provide Avista reasonable advance notice of any such test or inspection by or at the direction of Project Developer.

**9.8 Project Developer Obligations in Accordance with Prudent Utility Practices.** Project Developer shall own, operate and maintain the Facility and any Project Developer-owned Interconnection Facilities so as to allow reliable generation and delivery of electric energy to Avista for the full term of the Agreement, in accordance with Prudent Utility Practices.

## **10. METERING**

**10.1** A power meter currently located at the Point of Delivery at Project Developer's expense will register the Net Delivered Output generated and delivered to Avista on an hourly basis.

**10.2** The power meter will record power, which flows from the Facility to Avista. Avista and Project Developer both shall have the right to read and receive readings from the power meter. Avista shall read the meter at least once a month to determine the amount of Net Delivered Output in each calendar month. Power deliveries in any month shall be calculated based on information from meter readings with the date adjustment made by prorating metered amounts to the number of days in such month. Actual monthly Net Delivered Output shall be determined from the record developed. Avista shall own and maintain all meters used to determine the billing hereunder and the meter(s) shall be located as specified in the Interconnection Agreement. Such meter(s) shall be tested and inspected in accordance with Avista's meter testing program as filed with the Washington Utilities and Transportation Commission and/or the Idaho Public Utilities Commission. If requested by Project Developer, Avista shall provide copies of applicable test and calibration records and calculations. Avista shall permit a representative of Project Developer to be present at all times the meters are being tested. Additionally, Avista shall test any or all of such meters as may be reasonably be required by Project Developer. Project Developer shall pay reasonable costs for such requested test unless any of the meters is found to be inaccurate in which case Avista shall pay for such test.

**10.3** Adjustments shall be made in meter readings and billings for errors in a meter reading or billing discovered within twelve (12) months of the error. Avista shall notify Project Developer of any errors arising from meter calibration, reading or billing. Avista shall permit

