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UTILITIES COMMISSION

DONOVAN E. WALKER
Lead Counsel
dwalker@idahopower.com

September 8, 2015

VIA HAND DELIVERY

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
Boise, Idaho 83702

Re: Case No. IPC-E-15-24
North Gooding Main Hydro LLC – Idaho Power Company's Application
Regarding Energy Sales Agreement

Dear Ms. Jewell:

Enclosed for filing please find an original and seven (7) copies of Idaho Power Company's Application in the above matter.

Very truly yours,

Donovan E. Walker

DEW:csb
Enclosures

DONOVAN E. WALKER (ISB No. 5921)
Idaho Power Company
1221 West Idaho Street (83702)
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Attorney for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR)
APPROVAL OR REJECTION OF AN) CASE NO. IPC-E-15-24
ENERGY SALES AGREEMENT WITH) APPLICATION
NORTH GOODING MAIN HYDRO LLC)
FOR THE SALE AND PURCHASE OF)
ELECTRIC ENERGY FROM THE NORTH)
GOODING MAIN HYDRO PROJECT.)
_____)

Idaho Power Company ("Idaho Power" or "Company"), in accordance with RP 52 and the applicable provisions of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), hereby respectfully applies to the Idaho Public Utilities Commission ("Commission") for an order accepting or rejecting the Energy Sales Agreement ("ESA") between Idaho Power and North Gooding Main Hydro LLC ("NGMH" or "Seller") under which NGMH would sell and Idaho Power would purchase electric energy generated by the 1.3 megawatt ("MW") North Gooding Main Hydro Project ("Facility") located near Gooding, Idaho.

In support of this Application, Idaho Power represents as follows:

I. INTRODUCTION

1. The ESA submitted herewith is a new contract for a Qualifying Facility (“QF”) for a term of 20 years. This ESA complies with the Commission’s orders from Case No. GNR-E-11-03 and contains levelized published rates for a seasonal hydro project that is 10 average megawatts (“aMW”) or less.

2. The ESA, dated July 29, 2015, was signed by NGMH on July 23, 2015, and signed by Idaho Power on July 29, 2015. The ESA was executed in compliance with the Commission’s orders directing the implementation of PURPA for the state of Idaho and contains the applicable avoided cost rates pursuant to the Commission’s Order No. 33305.

II. BACKGROUND

3. Sections 201 and 210 of PURPA, and pertinent regulations of the Federal Energy Regulatory Commission (“FERC”), require that regulated electric utilities purchase power produced by cogenerators or small power producers that obtain QF status. The rate a QF receives for the sale of its power is generally referred to as the “avoided cost” rate and is to reflect the incremental cost to an electric utility of electric energy or capacity or both, which, but for the purchase from the QF, such utility would generate itself or purchase from another source. The Commission has authority under PURPA Sections 201 and 210 and the implementing regulations of FERC, 18 C.F.R. § 292, to set avoided costs, to order electric utilities to enter into fixed-term obligations for the purchase of energy from QFs, and to implement FERC rules.

4. On December 18, 2012, the Commission issued Order No. 32697, which established parameters for published and negotiated avoided cost rate calculations.

The Commission further established and defined numerous contract terms and conditions for standard power purchase agreements entered into between regulated utilities and QFs. On January 2, 2013, the Commission issued Errata to Order No. 32697, which corrected published avoided cost rates to include energy payments not discounted by transmission and line loss. Then the Commission issued Reconsideration Order Nos. 32737 and 32802 on February 5, 2013, and May 5, 2013, respectively, which further clarified certain terms and conditions of power purchase agreements.

5. On May 29, 2015, the Commission issued Order No. 33305, which provided published avoided cost rates effective June 1, 2015, pursuant to the approved process of the Commission providing annual updates to the published avoided cost rates.

III. THE ENERGY SALES AGREEMENT

6. On July 29, 2015, Idaho Power and NGMH entered into an ESA pursuant to the terms and conditions of the various Commission orders applicable to this PURPA agreement for a Seasonal Hydro project and containing the most recent levelized published avoided costs. A copy of the ESA is attached to this Application as Attachment 1. Under the terms of this ESA, NGMH elected to contract with Idaho Power for a 20-year term using the levelized published avoided cost rates as currently established by Commission Order No. 33305 for energy deliveries less than 10 aMW.

7. NGMH proposes to operate and maintain a 1.3 MW (Maximum Capacity Amount) Seasonal Hydro energy facility to be located near Gooding, Idaho. The Facility will be a QF under the applicable provisions of PURPA.

8. The nameplate rating of this Facility is 1.3 MW. As defined in paragraph 1.21 and paragraph 4.1.4 of the ESA, NGMH will be required to provide data on the Facility that Idaho Power will use to confirm that under normal and/or average conditions, the Facility will not exceed 10 aMW on a monthly basis. Furthermore, as described in paragraph 7.5 of the ESA, should the Facility exceed 10 aMW on a monthly basis, Idaho Power will accept the energy (Inadvertent Energy) that does not exceed the Maximum Capacity Amount, but will not purchase or pay for this Inadvertent Energy.

9. NGMH has selected April 1, 2017, as the Scheduled Operation Date. See Appendix B. Various requirements have been placed upon Seller in order for Idaho Power to accept energy deliveries from this Facility. Idaho Power will continue to monitor compliance with these requirements. In addition, Idaho Power will monitor the ongoing requirements through the full term of this ESA.

10. The ESA, as signed and submitted by the parties thereto, contains levelized published avoided cost rates and various other additional requirements associated with the Seller selection of levelized rates in conformity with applicable Commission orders. Some of those additional requirements being Debt and Maintenance reserve accounts, ongoing security requirements in the form of a lien and/or liquid security, and increased minimum insurance requirements.

11. The ESA provides that all applicable interconnection charges and monthly operational or maintenance charges under Schedule 72 will be assessed to Seller and, prior to the Facility delivering any energy to Idaho Power, all requirements of the Schedule 72 Generator Interconnection Agreement ("GIA") must be complete and the Facility must be designated as a network resource ("DNR") to serve Idaho Power's retail

load on its system. NGMH requested a GIA on May 27, 2015. NGMH and Idaho Power signed a Feasibility Study Agreement (“FSA”) on June 23, 2015. The FSA Report was completed on August 5, 2015. A GIA is expected to be signed by May 1, 2016.

12. Article 21 of the ESA provides that the ESA will not become effective until the Commission has approved all of the ESA’s terms and conditions and declared that all payments Idaho Power makes to NGMH for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

IV. MODIFIED PROCEDURE

13. Idaho Power believes that a hearing is not necessary to consider the issues presented herein and respectfully requests that this Application be processed under Modified Procedure; i.e., by written submissions rather than by hearing. RP 201 *et seq.* If, however, the Commission determines that a technical hearing is required, the Company stands ready to prepare and present its testimony in such hearing.

V. COMMUNICATIONS AND SERVICE OF PLEADINGS

14. Communications and service of pleadings, exhibits, orders, and other documents relating to this proceeding should be sent to the following:

Donovan E. Walker
Lead Counsel
Idaho Power Company
1221 West Idaho Street
P.O. Box 70
Boise, Idaho 83707
dwalker@idahopower.com

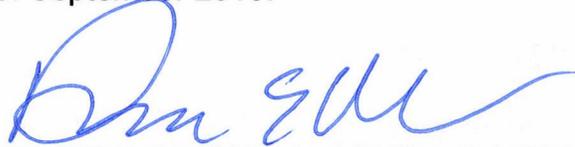
Randy C. Allphin
Energy Contract Administrator
Idaho Power Company
1221 West Idaho Street
P.O. Box 70
Boise, Idaho 83707
rallphin@idahopower.com

Regulatory Dockets
Idaho Power Company
1221 West Idaho Street
P.O. Box 70
Boise, Idaho 83707
dockets@idahopower.com

VI. REQUEST FOR RELIEF

15. Idaho Power respectfully requests that the Commission issue an order: (1) authorizing that this matter may be processed by Modified Procedure; (2) accepting or rejecting the ESA between Idaho Power and NGMH, without change or condition; and, if accepted, (3) declaring that all payments for purchases of energy under the ESA between Idaho Power and NGMH be allowed as prudently incurred expenses for ratemaking purposes.

Respectfully submitted this 8th day of September 2015.



DONOVAN E. WALKER
Attorney for Idaho Power Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8th day of September 2015 I served a true and correct copy of the within and foregoing APPLICATION upon the following named parties by the method indicated below, and addressed to the following:

North Gooding Main Hydro LLC
Ted Sorenson, P.E.
North Gooding Main Hydro LLC
5203 South 11th East
Idaho Falls, Idaho 83404

Hand Delivered
 U.S. Mail
 Overnight Mail
 FAX
 Email ted@tsorenson.net


Christa Beary, Legal Assistant

**BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION
CASE NO. IPC-E-15-24**

IDAHO POWER COMPANY

ATTACHMENT 1

ENERGY SALES AGREEMENT
BETWEEN
IDAHO POWER COMPANY
AND
NORTH GOODING MAIN HYDRO LLC
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ENERGY SALES AGREEMENT
(Seasonal Hydro Facility 10 average Monthly MW or Less)

Project Name: North Gooding Main Hydro

Project Number: 20150729

THIS ENERGY SALES AGREEMENT ("AGREEMENT"), entered into on this 29th day of July 2015 between North Gooding Main Hydro LLC (Seller), and IDAHO POWER COMPANY, an Idaho corporation (Idaho Power), hereinafter sometimes referred to collectively as "Parties" or individually as "Party."

WITNESSETH:

WHEREAS, Seller will design, construct, own, maintain and operate an electric generation facility; and

WHEREAS, Seller wishes to sell, and Idaho Power is required to purchase, electric energy produced by a PURPA Qualifying Facility.

THEREFORE, In consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

ARTICLE I: DEFINITIONS

As used in this Agreement and the appendices attached hereto, the following terms shall have the following meanings:

- 1.1 "Authorized Agent" – a person or persons specified within paragraph 25.2 of this Agreement as being authorized and empowered, for and on behalf of the Seller, to execute instruments, agreements, certificates, and other documents (collectively "Documents") and to take actions on behalf of the Seller, and that Idaho Power Company and its directors, officers, employees, and agents are entitled to consider and deal with such persons as agents of the Seller for all purposes, until such time as an authorized officer of the Seller shall have delivered to Idaho Power Company a notice in writing stating that such person is and shall no longer be an agent on behalf

of the Seller. Any Documents executed by such persons shall be deemed duly authorized by the Seller for all purposes.

- 1.2 “Base Energy” – Monthly Net Energy less any Surplus Energy as calculated in paragraph 1.42.
- 1.3 “Commission” – The Idaho Public Utilities Commission.
- 1.4 “Contract Year” – The period commencing each calendar year on the same calendar date as the Operation Date and ending 364 days thereafter.
- 1.5 “Delay Cure Period” – 120 days immediately following the Scheduled Operation Date.
- 1.6 “Delay Damages” – ((Current month’s Initial Year Monthly Estimated Net Energy Amount as specified in paragraph 6.2.1 as of the Effective Date divided by the number of days in the current month) multiplied by the number of days in the Delay Period in the current month) multiplied by the current month’s Delay Price.
- 1.7 “Delay Period” – All days past the Scheduled Operation Date until the Seller’s Facility achieves the Operation Date or the Agreement is terminated by Idaho Power.
- 1.8 “Delay Price” – The current month’s Mid-Columbia Market Energy Cost minus the current month’s All Hours Energy Price as specified in Appendix E of this Agreement. If this calculation results in a value less than 0, the result of this calculation will be 0.
- 1.9 “Designated Dispatch Facility” – Idaho Power’s Load Serving Operations, or any subsequent group designated by Idaho Power.
- 1.10 “Effective Date” – The date stated in the opening paragraph of this Energy Sales Agreement representing the date upon which this Energy Sales Agreement was fully executed by both Parties.
- 1.11 “Environmental Attributes” – means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Facility, and its avoided emission of pollutants. Environmental Attributes include but are not limited to: (1) any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur

hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere;¹ (3) the reporting rights to these avoided emissions, such as REC Reporting Rights. REC Reporting Rights are the right of a REC purchaser to report the ownership of accumulated RECs in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at the REC purchaser's discretion, and include without limitation those REC Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. RECs are accumulated on a MWh basis and one REC represents the Environmental Attributes associated with one (1) MWh of energy. Environmental Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Facility, (ii) production tax credits associated with the construction or operation of the Facility and other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation, (iii) the cash grant in lieu of the investment tax credit pursuant to Section 1603 of the American Recovery and Reinvestment Act of 2009, or (iv) emission reduction credits encumbered or used by the Facility for compliance with local, state, or federal operating and/or air quality permits.

- 1.12 "Estimated Net Energy Amount" – the monthly estimated Net Energy (kWh) information provided by the Seller in accordance with paragraph 6.2 and which may be adjusted periodically throughout the Term of this Agreement in accordance with paragraph 6.2.
- 1.13 "Facility" – That electric generation facility described in Appendix B of this Agreement.

¹ Avoided emissions may or may not have any value for GHG compliance purposes. Although avoided emissions are included in the list of Environmental Attributes, this inclusion does not create any right to use those avoided emissions to comply with any GHG regulatory program.

- 1.14 "First Energy Date" – The day commencing at 00:01 hours, Mountain Time, following the day that Seller has satisfied the requirements of Article IV and after the Seller requested First Energy Date.
- 1.15 "Forced Outage" – a partial or total reduction of a) the Facility's capacity to produce and/or deliver Net Energy to the Point of Delivery, or b) Idaho Power's ability to accept Net Energy at the Point of Delivery for non-economic reasons, as a result of Idaho Power or Facility: 1) equipment failure which was **not** the result of negligence or lack of preventative maintenance, or 2) responding to a transmission provider curtailment order, or 3) unplanned preventative maintenance to repair equipment that left unrepaired, would result in failure of equipment prior to the planned maintenance period, or 4) planned maintenance or construction of the Facility or electrical lines required to serve this Facility, or 5) icing events within the immediate water source used as the Facility's primary motive force that causes the Facility to reduce energy production.
- 1.16 "Generation Interconnection Agreement (GIA)" – The interconnection agreement that specifies terms, conditions and requirements of interconnecting to the Idaho Power electrical system, which will include but not be limited to all requirements as specified by Schedule 72.
- 1.17 "Generation Unit" – a complete hydro electrical generation system within the Facility that is able to generate and deliver energy to the Point of Delivery independent of other Generation Units within the same Facility.
- 1.18 "Heavy Load Hours (HL)" – The daily hours from hour ending 0700 - 2200 Mountain Time, (16 hours) excluding all hours on all Sundays, New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas.
- 1.19 "Inadvertent Energy" – Electric energy Seller does not intend to generate. Inadvertent energy is more particularly described in paragraph 7.5 of this Agreement.
- 1.20 "Interconnection Facilities" – All equipment specified in the GIA.
- 1.21 "Initial Capacity Determination" – The process by which Idaho Power confirms that under normal or average design conditions the Facility will generate at no more than 10 average

megawatts (MW) per month and is therefore eligible to be paid the published rates in accordance with Commission Order No. 33305.

- 1.22 “Light Load Hours (LL)” – The daily hours from hour ending 2300 – 0600 Mountain Time (8 hours), plus all other hours on all Sundays, New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas.
- 1.23 “Losses” – The loss of electrical energy expressed in kilowatt hours (kWh) occurring as a result of the transformation and transmission of energy between the point where the Facility’s energy is metered and Facility’s Point of Delivery. The loss calculation formula will be as specified in Appendix B of this Agreement.
- 1.24 “Market Energy Reference Price” – Eighty-five percent (85%) of the Mid-Columbia Market Energy Cost.
- 1.25 “Material Breach” – A Default (paragraph 19.2.1) subject to paragraph 19.2.2.
- 1.26 “Maximum Capacity Amount” – The maximum capacity (MW) of the Facility will be as specified in Appendix B of this Agreement.
- 1.27 “Mid- Columbia Market Energy Cost” – 82.4% of the monthly arithmetic average of each day’s Intercontinental Exchange (“ICE”) daily firm Mid-C Peak Avg and Mid-C Off-Peak Avg index prices. Each day’s index prices will reflect the relative proportions of peak hours and off-peak hours in the month as follows:

The actual Mid-Columbia Market Energy Cost calculation being:

$$.824 * \left(\sum_{x=1}^n \{(\text{ICE Mid-C Peak Avg}_x * \text{HL hours for day}) + (\text{ICE Mid-C Off-Peak Avg}_x * \text{LL hours for day})\} / (n*24) \right)$$

where n = number of days in the month

If the ICE Mid-C Index prices are not reported for a particular day or days, prices derived from the respective averages of HL and LL prices for the immediately preceding and following reporting periods or days shall be substituted into the formula stated in this definition and shall therefore be multiplied by the appropriate

respective numbers of HL and LL Hours for such particular day or days with the result that each hour in such month shall have a related price in such formula. If the day for which prices are not reported has in it only LL Hours (for example a Sunday), the respective averages shall use only prices reported for LL hours in the immediately preceding and following reporting periods or days. If the day for which prices are not reported is a Saturday or Monday or is adjacent on the calendar to a holiday, the prices used for HL Hours shall be those for HL hours in the nearest (forward or backward) reporting periods or days for which HL prices are reported.

If the ICE Mid-C Index reporting is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the ICE Mid-C Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electrical industry.

- 1.28 “Nameplate Capacity” –The full-load electrical quantities assigned by the designer to a generator and its prime mover or other piece of electrical equipment, such as transformers and circuit breakers, under standardized conditions, expressed in amperes, kilovolt-amperes, kilowatts, volts or other appropriate units. Usually indicated on a nameplate attached to the individual machine or device.
- 1.29 “Net Energy” – All of the electric energy produced by the Facility, less Station Use and Losses, expressed in kilowatt hours (kWh) delivered by the Facility to Idaho Power at the Point of Delivery. Subject to the terms of this Agreement, Seller commits to deliver all Net Energy to Idaho Power at the Point of Delivery for the full term of the Agreement. Net Energy does not include Inadvertent Energy.
- 1.30 “Non-seasonal Hydro Facility” – in accordance with Commission Order 32802, a hydro generating Facility that does not qualify as a Seasonal Hydro Facility as defined in paragraph 1.39 of this Agreement.

- 1.31 “Operation Date” – The day commencing at 00:01 hours, Mountain Time, following the day that all requirements of paragraph 5.2 have been completed and after the Seller requested Operation Date.
- 1.32 “Point of Delivery” – The location specified in the GIA and referenced in Appendix B, where Idaho Power’s and the Seller’s electrical facilities are interconnected and the energy from this Facility is delivered to the Idaho Power electrical system.
- 1.33 “Prudent Electrical Practices” – Those practices, methods and equipment that are commonly and ordinarily used in electrical engineering and operations to operate electric equipment lawfully, safely, dependably, efficiently and economically.
- 1.34 “Renewable Energy Certificate” or “REC” means a certificate, credit, allowance, green tag, or other transferable indicia, howsoever entitled, indicating generation of renewable energy by the Facility, and includes all Environmental Attributes arising as a result of the generation of electricity associated with the REC. One REC represents the Environmental Attributes associated with the generation of one thousand (1,000) kWh of Net Energy.
- 1.35 “Scheduled Operation Date” – The date specified in Appendix B when Seller anticipates achieving the Operation Date. It is expected that the Scheduled Operation Date provided by the Seller shall be a reasonable estimate of the date that the Seller anticipates that the Seller’s Facility shall achieve the Operation Date.
- 1.36 “Schedule 72” – Idaho Power’s Tariff No 101, Schedule 72 or its successor schedules as approved by the Commission.
- 1.37 “Security Deposit” - \$45 per kW Nameplate Capacity of the entire Facility.
- 1.38 “Season” – The three periods identified in paragraph 6.2.1 of this Agreement.
- 1.39 “Seasonal Hydro Facility” – in accordance with Commission Order 32802, a hydro electric generating Facility that delivers to Idaho Power total Net Energy of at least 55% of its calendar year annual Net Energy during the months June, July and August.
- 1.40 “Seasonal Hydro Facility Eligibility Test Periods” – Beginning with the first full calendar year after the Operation Date, each five (5) calendar year consecutive period. If the term of this

Agreement results in the last period not having a full five (5) calendar years, then the last period will be equal to the time from the end of the last full five (5) calendar year consecutive period and the expiration date of this Agreement.

- 1.41 “Station Use” – Electric energy that is used to operate equipment that is auxiliary or otherwise related to the production of electricity by the Facility.
- 1.42 “Surplus Energy” – Is (1) Net Energy produced by the Seller’s Facility and delivered to the Idaho Power electrical system during the month which exceeds 110% of the monthly Estimated Net Energy Amount for the corresponding month specified in paragraph 6.2, or (2) if the Net Energy produced by the Seller’s Facility and delivered to the Idaho Power electrical system during the month is less than 90% of the monthly Estimated Net Energy Amount for the corresponding month specified in paragraph 6.2, then all Net Energy delivered by the Facility to the Idaho Power electrical system for that given month, or (3) all Net Energy produced by the Seller’s Facility and delivered by the Facility to the Idaho Power electrical system prior to the Operation Date.
- 1.43 “Termination Damages” – Financial damages the non defaulting party has incurred as a result of termination of this Agreement.
- 1.44 “Total Cost of the Facility” – The total replacement cost of structures, equipment and appurtenances.

ARTICLE II: NO RELIANCE ON IDAHO POWER

- 2.1 Seller Independent Investigation - Seller warrants and represents to Idaho Power that in entering into this Agreement and the undertaking by Seller of the obligations set forth herein, Seller has investigated and determined that it is capable of performing hereunder and has not relied upon the advice, experience or expertise of Idaho Power in connection with the transactions contemplated by this Agreement.
- 2.2 Seller Independent Experts - All professionals or experts including, but not limited to, engineers, attorneys or accountants, that Seller may have consulted or relied on in undertaking the

transactions contemplated by this Agreement have been solely those of Seller.

ARTICLE III: WARRANTIES

- 3.1 No Warranty by Idaho Power - Any review, acceptance or failure to review Seller's design, specifications, equipment or facilities shall not be an endorsement or a confirmation by Idaho Power and Idaho Power makes no warranties, expressed or implied, regarding any aspect of Seller'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 - Seller warrants that the Facility is a "Qualifying Facility," as that term is used and defined in 18 CFR 292.201 et seq. After initial qualification, Seller will take such steps as may be required to maintain the Facility's Qualifying Facility status during the term of this Agreement and Seller's failure to maintain Qualifying Facility status will be a Material Breach of this Agreement. Idaho Power reserves the right to review the Facility's Qualifying Facility status and associated support and compliance documents at anytime during the term of this Agreement.
- 3.3 FERC License / Exemption / Determination - Seller warrants that Seller possesses a valid license, exemption from licensing, or a determination of a qualifying conduit hydropower facility (pursuant to section 30 of the Federal Power Act) from the Federal Energy Regulatory Commission ("FERC") for the Facility. Seller recognizes that Seller's possession and retention of a valid FERC license, exemption, or a determination of a qualifying conduit hydropower facility is a material part of the consideration for Idaho Power's execution of this Agreement. If applicable, Seller will take such steps as may be required to maintain a valid FERC license, exemption, or a determination of a qualifying conduit hydropower facility for the Facility during the term of this Agreement, and Seller's failure to maintain a valid FERC license or exemption will be a material breach of this Agreement.
- 3.4 Seasonal Hydro Facility Qualifications - Seller warrants that the Facility is a Seasonal Hydro Facility as that term is defined in paragraph 1.39 of this Agreement. After initial qualification,

Seller will take such steps as may be required to maintain the Seasonal Hydro Facility status during the full term of this Agreement. Seller's failure to achieve Seasonal Hydro Facility status for at least three (3) calendar years during any Seasonal Hydro Facility Eligibility Test Period will result in this Facility being reclassified as a Non-seasonal Hydro Facility for the remaining Term of this Agreement. Idaho Power reserves the right to review the Seasonal Hydro Facility status of this Facility and associated support and compliance documents at anytime during the term of this Agreement.

ARTICLE IV: CONDITIONS TO ACCEPTANCE OF ENERGY

4.1 Prior to the First Energy Date and as a condition of Idaho Power's acceptance of deliveries of energy from the Seller under this Agreement, Seller shall:

4.1.1 Submit proof to Idaho Power that all licenses, permits, determinations and approvals necessary for Seller's operations have been obtained from applicable federal, state or local authorities, including, but not limited to, evidence of compliance with Subpart B, 18 CFR 292.201 et seq. as a certified Qualifying Facility and evidence of compliance with the eligibility to be classified as a Seasonal Hydro Facility as defined in paragraph 1.39 of this Agreement.

4.1.2 Opinion of Counsel - Submit to Idaho Power an Opinion Letter signed by an attorney admitted to practice and in good standing in the State of Idaho providing an opinion that Seller's licenses, permits, determinations and approvals as set forth in paragraph 4.1.1 above are legally and validly issued, are held in the name of the Seller and, based on a reasonable independent review, counsel is of the opinion that Seller is in substantial compliance with said permits as of the date of the Opinion Letter. The Opinion Letter will be in a form acceptable to Idaho Power and will acknowledge that the attorney rendering the opinion understands that Idaho Power is relying on said opinion. Idaho Power's acceptance of the form will 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).

4.1.3 Commission Approval - Confirm with Idaho Power that Commission approval of this Agreement in a form acceptable to Idaho Power has been received.

4.1.4 Initial Capacity Determination - Submit to Idaho Power such data as Idaho Power may reasonably require to perform the Initial Capacity Determination. Such data will include but not be limited to, Nameplate Capacity, equipment specifications, prime mover data, resource characteristics, normal and/or average operating design conditions and Station Use data. Upon receipt of this information, Idaho Power will review the provided data and if necessary, request additional data to complete the Initial Capacity Determination within a reasonable time.

4.1.4.1 If the Maximum Capacity specified in Appendix B of this Agreement and the cumulative manufacturer's Nameplate Capacity rating of the individual Generation Units at this Facility does not exceed 10 MW, the Seller shall submit detailed, manufacturer, verifiable data of the Nameplate Capacity ratings of the actual individual Generation Units to be installed at this Facility. Upon verification by Idaho Power that the data provided establishes the combined Nameplate Capacity rating of the Generation Units to be installed at this Facility does not exceed 10 MW, it will be deemed that the Seller has satisfied the Initial Capacity Determination for this Facility.

4.1.4.2 If the Maximum Capacity or the cumulative manufacture's Nameplate Capacity Rating of the individual Generation Units at this Facility exceeds 10 MW, Idaho Power will review all data submitted by Seller to determine if it is a reasonable estimate that the Facility will not exceed 10 average monthly MW in any month.

4.1.5 Nameplate Capacity – Submit to Idaho Power manufacturer's and engineering documentation that establishes the Nameplate Capacity of each individual Generation Unit that is included within this entire Facility and also the total of these components to determine the Facility Nameplate Capacity rating. Upon receipt of this data, Idaho Power

shall review the provided data and determine if the Nameplate Capacity specified is reasonable based upon the manufacturer's specified generation ratings for the specific Generation Units.

4.1.6 Completion certificate – Provide certification executed by an authorized agent of the Seller attesting that all mechanical and electrical equipment of the designated Generation Unit(s) of the Facility has been completed to enable the Generation Unit(s) to beginning testing and delivery of Test Energy in a safe manner.

4.1.7 Insurance - Submit written proof to Idaho Power of all insurance required in Article XIII.

4.1.8 Interconnection – Provide written confirmation from Idaho Power's business unit that administers the GIA that Seller has satisfied all interconnection and testing requirements that will enable the Facility to be safely connected to the Idaho Power electrical system.

4.1.9 Network Resource Designation – Confirm that the Seller's Facility has been designated as an Idaho Power network resource capable of delivering energy up to the Maximum Capacity at the Point of Delivery.

4.1.9.1 As specified in Appendix B item 8 of this Agreement, the Seller's Facility must have achieved the status of being an Idaho Power Designated Network Resource (DNR) prior to Idaho Power accepting any energy from this Facility. Appendix B item 8 provides information on the initial application process required to enable Idaho Power to determine if network transmission capacity is available for this Facility's Maximum Capacity Amount and/or if Idaho Power transmission network upgrades will be required. The results of this study process and any associated costs will be included in the GIA for this Facility.

4.1.9.2 Only after the Facility has completed all requirements of the GIA that enable the Facility to come online can Idaho Power begin the final process of designating this resource as an Idaho Power Network Resource. The final process must be initiated at a minimum 30 days prior to the First Energy Date. Therefore, Idaho Power will begin this process 30 days prior to the Scheduled First Energy Date

specified in Appendix B of this Agreement and only after Idaho Power has received confirmation that the GIA requirements have been completed. If the Seller estimates that the actual First Energy is expected to be different than the Scheduled First Energy Date specified in Appendix B of this Agreement, the Seller must notify Idaho Power of this revised date no later than 30 days prior to Scheduled First Energy Date. Under no circumstances will the project be able to deliver any energy to Idaho Power until such time as Idaho Power has designated this Facility as an Idaho Power Network Resource.

4.1.10 Reserve Accounts - Demonstrate to Idaho Power's satisfaction that the Seller has established and funded (1) a debt service reserve account in a form and with a fund holder which complies with paragraph 19.3.2 and (2) demonstrate to Idaho Power's satisfaction that the Seller has established a maintenance reserve account in a form and with a fund holder acceptable to Idaho Power. If the Facility has established a maintenance reserve account in a form and amount that meets or exceeds the maintenance reserve requirements as defined below for compliance with other parties having a financial interest in this Facility, the Seller shall provide Idaho Power with documentation of those requirements and upon Idaho Power's acceptance that the financial maintenance reserve requirements meet or exceed the requirements within this Agreement, Idaho Power will accept this financial maintenance reserve account as meeting these requirements. If Idaho Power accepts, this financial maintenance reserve account, it will be required that within 60 days of the end of each Contract Year the Seller provide Idaho Power documentation of the balance within the financial maintenance reserve account and the previous year's activity within the account. Idaho Power reserves the right to require the Seller to provide a maintenance reserve account as specified below at any time during the term of this Agreement if Idaho Power determines that the Seller's financial maintenance reserve account no longer meets or exceeds these requirements. Maintenance reserve account shall be structured and funded as follows:

- 4.1.10.1 All funds will be prudently invested, in a guaranteed, insured account and all cost of implementing and operating the maintenance reserve account shall be paid by the Seller. All interest earned on the funds on deposit will be retained in the maintenance reserve account. At the end of the term of this Agreement, any balance remaining in the maintenance reserve account shall be the property of the Seller.
- 4.1.10.2 Within 60 days after the completion of each Contract Year, the Seller will deposit cash in the maintenance reserve account in an amount equal to, or exceeding 5% of the Facility's estimated gross income for the ensuing Contract Year, less an amount equal to the Facility's actual maintenance, repair and replacement expenses (maintenance expenses) incurred during the prior Contract Year. At Seller's option, the cash required hereunder to be maintained in such reserve may be replaced by an irrevocable standby letter of credit in the same amount.
- 4.1.10.3 The maximum amount of required deposit retained in the maintenance reserve account shall be \$500,000. This maximum amount will be adjusted either upward or downward to reflect current replacement cost of a complete turbine/generator. This adjustment will be made at the beginning of each 3rd contract year and the replacement value determined by the replacement cost valuation methods as described within Appendix H, item 4. In the event this adjustment results in a balance in this account exceeding 10% of the actual replacement cost of a complete turbine/generator then the Seller may request a disbursement of funds as specified in paragraph 4.1.10.6.
- 4.1.10.4 At the time Seller makes the deposit described in paragraph 4.1.10.2, Seller will provide Idaho Power with an accurate, verifiable report showing the prior Contract Year's actual maintenance expenses, identified by appropriate FERC maintenance account number, and the estimate of the Facility's gross income

for the ensuing Contract Year used to compute the deposit amount, together with documentation supporting the estimate of gross income.

4.1.10.5 If at any time it appears that the maintenance expense for that Contract Year will exceed 5% of the Facility's estimated gross income for that Contract Year, the Seller may request that Idaho Power consent to the release of funds from the maintenance reserve account in an amount sufficient to pay the anticipated additional maintenance expenses. The request must include documentation supporting the Seller's projection of excess maintenance expense, identified by appropriate FERC maintenance account number, and such documentation shall be submitted to Idaho Power. Upon approval by Idaho Power, the required funds will be released to Seller in accordance with Paragraph 4.1.10.6.

4.1.10.6 Control of the maintenance reserve account will be maintained by Idaho Power through the requirement of dual signatures on the account. The only authorized signers will be the Chief Operating Officer and the Chief Financial Officer of Idaho Power (or their respective designees) and the Treasurer of Seller (or his/her respective designee). Accordingly, funds will only be released from the maintenance reserve account upon the signatures of both Idaho Power authorized signers or one Idaho Power authorized signer and Seller's authorized signer.

4.1.10.7 At the end of each Contract Year, Seller will provide Idaho Power with evidence of compliance with the maintenance reserve account requirements set out in this Agreement. This evidence of compliance will be provided in a manner and form acceptable to Idaho Power. The maintenance reserve fund will be subject to the lien rights described in paragraph 4.1.11 below.

4.1.11 Security Interests - Provide Idaho Power with acceptable security against Seller's default under this Agreement. Acceptable security will conform to Commission Order No. 21690 and No. 21800 and may include, but will not be limited to (1) title insurance,

security interests in the real property associated with the Facility, equipment, fixtures, contracts, permits, easements, rights-of-way, land use agreements, funds held in escrow in which Seller has an interest and that relate to the operation of the Facility, and other reasonable security arrangements consistent with the Facility's financing and ownership arrangements; or (2) the seller may post liquid security in an amount equal to at least thirty five percent (35%) of the Accumulated Overpayment Amount specified for that year in Appendix G and in a form as specified in Appendix D.

4.1.11.1 Idaho Power's security interests will be superior and senior to all liens other than the first mortgage lien and other security interests permitted in accordance with paragraphs 4.1.11.2. The Seller shall be responsible for all costs reasonably incurred by Idaho Power to review and perfect this security interest not to exceed \$15,000.

4.1.11.2 If Seller desires to incur a first mortgage lien or other security interests that will be superior to Idaho Power's security interests in the Facility, at least twenty-one (21) days prior to their execution, Seller shall provide Idaho Power with draft copies of the deeds of trust, mortgages and other security agreements that will be used to secure such first lien. Upon their execution Seller shall provide Idaho Power with copies of the executed first lien documents. The executed first lien documents shall not be assigned, amended, modified, or extended, and no replacement or refinancing of any nature shall be undertaken, without Idaho Power's prior written consent which consent shall not be unreasonably withheld. In no event will the amount of any first mortgage lien exceed 90% of the total replacement cost of this Facility. The total amount of all refinanced or replaced first liens shall not exceed the unpaid principal balance of the first mortgage liens they replace.

4.1.11.3 Other than the first mortgage liens permitted herein, or temporary mechanic's, statutory or similar liens incurred in the ordinary course of business in an

amount not to exceed in aggregate \$50,000, Seller will not permit any liens or encumbrances of any nature whatsoever to be placed on the Facility without Idaho Power's prior written consent, which consent will not be unreasonably withheld. If any unpermitted lien or encumbrance is placed on the Facility, Seller will provide Idaho Power with a bond, insurance or other security acceptable to Idaho Power in an amount sufficient to secure the full discharge of such unpermitted lien or encumbrance.

4.1.11.4 During the remaining term of this Agreement, Seller shall maintain compliance with all requirements of Idaho Power's security interests described above in paragraph 4.1.11 of this Agreement and Commission Order No. 21690. Seller's failure to comply with those requirements, will be an event of default and in addition to any other remedies available under this Agreement, Commission Order No. 21690, and the security interests, Seller will be required by Idaho Power to post liquid security ("Performance Security") in a form as specified in Appendix D in an amount equal to at least thirty five percent (35%) of the Accumulated Overpayment Amount specified for that year in Appendix G. Failure to maintain and provide the liquid security required by this Agreement and Commission Order No. 21690 and No. 21800 shall be an event of default.

4.1.12 Written Acceptance – Request and obtain written confirmation from Idaho Power that all conditions to acceptance of energy have been fulfilled. Such written confirmation shall be provided within a commercially reasonable time following the Seller's request and will not be unreasonably withheld by Idaho Power.

ARTICLE V: TERM AND OPERATION DATE

5.1 Term - Subject to the provisions of paragraph 5.2 below, this Agreement shall become effective on the Effective Date and shall continue in full force and effect for a period of twenty (20) Contract Years from the Operation Date.

5.2 Operation Date - The Operation Date may occur only after the Facility has achieved all of the following:

- a) Achieved the First Energy Date at this Facility.
- b) Seller has demonstrated to Idaho Power's satisfaction that mechanical and electrical testing has been completed satisfactorily and the Facility is able to provide energy in a consistent, reliable and safe manner.
- c) Engineer's Certifications - Submit an executed Engineer's Certification of Design & Construction Adequacy and an Engineer's Certification of Operations and Maintenance (O&M) Policy as described in Commission Order No. 21690. These certificates will be in the form specified in Appendix C but may be modified to the extent necessary to recognize the different engineering disciplines providing the certificates.
- d) Seller has requested an Operation Date from Idaho Power in a written format.
- e) Seller has received written confirmation from Idaho Power of the Operation Date.

This confirmation will not be unreasonably withheld by Idaho Power.

5.3 Operation Date Delay - Seller shall cause the Facility to achieve the Operation Date on or before the Scheduled Operation Date. Delays in the interconnection and transmission network upgrade study, design and construction process (This includes any delay in making the required deposit payments set forth in the Facility's GIA) that **are not** caused by Idaho Power or Force Majeure events accepted by both Parties, **shall not** prevent Delay Damages or Termination Damages from being due and owing as calculated in accordance with this Agreement.

5.4 Termination - If Seller fails to achieve the Operation Date prior to the Scheduled Operation Date

or within the Delay Cure Period, such failure will be a Material Breach and Idaho Power may terminate this Agreement at any time until the Seller cures the Material Breach.

- 5.5 Delay Damages billing and payment – Idaho Power shall calculate and submit to the Seller any Delay Damages due Idaho Power within 15 days after the end of each month or within 30 days of the date this Agreement is terminated by Idaho Power.
- 5.6 Termination Damages billing and payment - Idaho Power shall calculate and submit to the Seller any Termination Damages due Idaho Power within 30 days after this Agreement has been terminated.
- 5.7 Seller Payment - Seller shall pay Idaho Power any calculated Delay or Termination Damages within 7 days from when Idaho Power presents these billings to the Seller. Seller's failure to pay these damages within the specified time will be a Material Breach of this Agreement and Idaho Power shall draw funds from the Security Deposit provided by the Seller in an amount equal to the calculated damages.
- 5.8 Security Deposit - Within thirty (30) days of the date of a final non-appealable Commission Order approving this Agreement as specified in Article XXI, the Seller shall post and maintain liquid security in a form as described in Appendix D equal to or exceeding the amount specified within this Agreement as the Security Deposit until such time as the Security Deposit is released by Idaho Power as specified in paragraph 5.8.1. Failure to post this Security Deposit in the time specified above will be a Material Breach of this Agreement and Idaho Power may terminate this Agreement.
- 5.8.1 Idaho Power shall release any remaining Security Deposit provided by Seller promptly after either the Facility has achieved its Operation Date or this Agreement has been terminated and only after all Delay and Termination Damages have been paid in full to Idaho Power.

ARTICLE VI: PURCHASE AND SALE OF NET ENERGY

6.1 Net Energy Purchase and Delivery - Except when either Party's performance is excused as provided herein, Idaho Power will purchase and Seller will sell all of the Net Energy to Idaho Power at the Point of Delivery. All Inadvertent Energy produced by the Facility will also be delivered by the Seller to Idaho Power at the Point of Delivery.

6.2 Estimated Net Energy Amounts - Neither the initial year's monthly estimated Net Energy amounts nor any adjusted monthly estimated Net Energy amounts provided during the term of this Agreement shall exceed 10 average monthly MW nor be greater than the Maximum Capacity (measured in kW) multiplied by the hours in the applicable month.

6.2.1 Initial Year Monthly Estimated Net Energy Amounts - Seller intends to produce and deliver Net Energy in the following monthly amounts:

	<u>Month</u>	<u>kWh</u>
Season 1	March	0
	April	260,000
	May	772,000
Season 2	July	901,000
	August	857,000
	November	0
	December	0
Season 3	June	832,000
	September	655,000
	October	127,000
	January	0
	February	0

6.2.2 Seller's Adjustment of Initial Year Monthly Estimated Net Energy Amounts - Prior to the Operation Date, the Seller may revise all of the previous initial year monthly Estimated Net Energy Amounts by providing written notice to Idaho Power in accordance with paragraph 25.1.

6.2.3 Seller's Adjustment of Monthly Estimated Net Energy Amounts After the Operation Date - After the Operation Date, the Seller may revise any future monthly Estimated Net

Energy Amounts by providing written notice no later than 5 PM Mountain Standard time on the last business day of the Notification Month specified in the following schedule:

Notification Month	Future monthly Estimated Net Energy Amounts eligible to be revised
November	January and any future months
December	February and any future months
January	March and any future months
February	April and any future months
March	May and any future months
April	June and any future months
May	July and any future months
June	August and any future months
July	September and any future months
August	October and any future months
September	November and any future months
October	December and any future months

- a.) This written notice must be provided to Idaho Power in accordance with paragraph 25.1 or by electronic notice provided and verified via return electronic verification of receipt to the electronic notices address specified in paragraph 25.1.
- b.) Failure to provide timely written notice of changed Estimated Net Energy Amounts will be deemed to be an election of no change from the most recently provided Estimated Net Energy Amounts.

6.2.4 Idaho Power Adjustment of Estimated Net Energy Amount – If Idaho Power is excused from accepting the Seller’s Net Energy as specified in paragraph 12.2.1 or if the Seller declares a Suspension of Energy Deliveries as specified in paragraph 12.3.1 and the Seller’s declared Suspension of Energy Deliveries is accepted by Idaho Power, the Estimated Net Energy Amount as specified in paragraph 6.2 for the specific month in which the reduction or suspension under paragraph 12.2.1 or 12.3.1 occurs will be temporarily reduced in accordance with the following and only for the actual month in which the event occurred:

Where:

NEA = Current Month's Estimated Net Energy Amount (Paragraph 6.2)

SGU = a.) If Idaho Power is excused from accepting the Seller's Net Energy as specified in paragraph 12.2.1 this value will be equal to the percentage of curtailment as specified by Idaho Power multiplied by the TGU as defined below.

b.) If the Seller declares a Suspension of Energy Deliveries as specified in paragraph 12.3.1 this value will be the sum of the individual Generation Units size ratings as specified in Appendix B that are impacted by the circumstances causing the Seller to declare a Suspension of Energy Deliveries.

TGU = Sum of all of the individual generator ratings of the Generation Units at this Facility as specified in Appendix B of this agreement.

RSH = Actual hours the Facility's Net Energy deliveries were either reduced or suspended under paragraph 12.2.1 or 12.3.1

TH = Actual total hours in the current month

Resulting formula being:

$$\begin{array}{l} \text{Adjusted} \\ \text{Estimated} \\ \text{Net Energy} \\ \text{Amount} \end{array} = \text{NEA} - \left(\left(\frac{\text{SGU}}{\text{TGU}} \times \text{NEA} \right) \times \left(\frac{\text{RSH}}{\text{TH}} \right) \right)$$

This Adjusted Estimated Net Energy Amount will be used in applicable Surplus Energy calculations for only the specific month in which Idaho Power was excused from accepting the Seller's Net Energy or the Seller declared a Suspension of Energy.

- 6.3 Failure to Deliver Minimum Estimated Net Energy Amounts - Unless excused by an event of Force Majeure, Seller's failure to deliver Net Energy in any Contract Year in an amount equal to at least ten percent (10%) of the sum of the Initial Year Estimated Net Energy Amounts as specified in paragraph 6.2 shall constitute an event of default.

ARTICLE VII: PURCHASE PRICE AND METHOD OF PAYMENT

- 7.1 Base Energy Heavy Load Purchase Price – For all Base Energy received during Heavy Load Hours, Idaho Power will pay the monthly levelized Base Energy Heavy Load Purchase Price as specified in the applicable Appendix E or Appendix F.
- 7.2 Base Energy Light Load Purchase Price – For all Base Energy received during Light Load Hours, Idaho Power will pay the levelized Base Energy Light Load Energy Price as specified in the applicable Appendix E or Appendix F.
- 7.3 All Hours Energy Price – The price to be used in the calculation of the Surplus Energy Price and Delay Damage Price shall be the levelized All Hours Energy Price as specified in the applicable Appendix E or Appendix F.
- 7.4 Surplus Energy Price - For all Surplus Energy, Idaho Power shall pay to the Seller the current month's Market Energy Reference Price or the applicable All Hours Energy Price specified in paragraph 7.3, whichever is lower.
- 7.5 Inadvertent Energy –
- 7.5.1 Inadvertent Energy is electric energy produced by the Facility, expressed in kWh, which the Seller delivers to Idaho Power at the Point of Delivery that exceeds 10,000 kW multiplied by the hours in the specific month in which the energy was delivered. (For example January contains 744 hours. 744 hours times 10,000 kW = 7,440,000 kWh. Energy delivered in January in excess of 7,440,000 kWh in this example would be Inadvertent Energy.)
- 7.5.2 Although Seller intends to design and operate the Facility to generate no more than 10 average MW monthly and therefore does not intend to generate Inadvertent

Energy, Idaho Power will accept Inadvertent Energy that does not exceed the Maximum Capacity Amount but will not purchase or pay for Inadvertent Energy.

7.5.3 Delivering Inadvertent Energy to Idaho Power for 2 consecutive months and/or in any 3 months during a Contract Year will be a Material Breach of this Agreement and Idaho Power may terminate this Agreement within sixty (60) days after the Material Breach has occurred.

7.6 Seasonal Hydro Facility eligibility – If the Facility fails to satisfy the Seasonal Hydro Facility Qualifications specified in paragraph 3.4, this Facility shall be reclassified as a Non-Seasonal Hydro Facility for the remaining term of the Agreement and the Non-Seasonal Hydro Facility Energy Prices specified in Appendix F will be applicable.

7.6.1 Annual eligibility audits – On or before February 15th of the year following the first full calendar year after the Operations Date and for every calendar year thereafter, Idaho Power will divide the total Net Energy received from the Facility for the months of June, July, and August by the total Net Energy received for the previous calendar year to establish a percentage of energy deliveries for the months of June, July and August. Any reduction in energy deliveries due to Forced Outages, planned or unplanned maintenance, Force majeure or any other reduction in energy deliveries will result in reduction of both the numerator and the denominator in this calculation, therefore no adjustment to this calculation is required for these events.

7.6.1.1 If this percentage is greater than or equal to 55% it will be deemed that the Facility has met the requirements to be classified as a Seasonal Hydro Facility for that previous calendar year.

7.6.1.2 If this percentage is less than 55%, Idaho Power will provide notification to the project of the Facility's failure to meet the Seasonal Hydro Facility requirements for the previous calendar year and the monthly energy payments for that previous calendar year will be recalculated to reflect the Non-Seasonal Hydro Facility energy prices as contained within Appendix F of this Agreement. Any

overpayments will be collected from the Facility in equal monthly payments over the remaining months of the current calendar year. If the Facility fails to meet the Seasonal Hydro Facility requirements for the second to last calendar year of the Contract Term, then the monthly energy payments for the remaining term of the contract will be priced according to the Non-Seasonal Hydro Facility Energy Prices specified in Appendix F.

7.6.1.3 If the Facility fails to achieve this percentage of 55% for at least three (3) calendar years during any Seasonal Hydro Facility Eligibility Test Period the Facility will be reclassified as a Non-Seasonal Hydro Facility for the remaining term of this Agreement and the Non-Seasonal Hydro Facility Energy Prices specified in Appendix F will replace the Seasonal Hydro Facility Energy Prices specified in Appendix E for use in all calculations in this Agreement for the remaining term of the Agreement.

7.7 Payment Due Date – Undisputed Base Energy and Surplus Energy payments, less any payments due to Idaho Power will be disbursed to the Seller within thirty (30) days of the date which Idaho Power receives and accepts the documentation of the monthly Base Energy and Surplus Energy actually delivered to Idaho Power as specified in Appendix A.

7.8 Continuing Jurisdiction of the Commission .This Agreement is a special contract and, as such, the rates, terms and conditions contained in this Agreement will be construed in accordance with Idaho Power Company v. Idaho Public Utilities Commission and Afton Energy, Inc., 107 Idaho 781, 693 P.2d 427 (1984), Idaho Power Company v. Idaho Public Utilities Commission, 107 Idaho 1122, 695 P.2d 1 261 (1985), Afton Energy, Inc, v. Idaho Power Company, 111 Idaho 925, 729 P.2d 400 (1986), Section 210 of the Public Utility Regulatory Policies Act of 1978 and 18 CFR §292.303-308

ARTICLE VIII: ENVIRONMENTAL ATTRIBUTES

- 8.1 Pursuant to Commission Order 32697 and 32802 the Environmental Attributes and Renewable Energy Certificates as defined within this Agreement and directly associated with the production of energy from the Seller's Facility are owned by the Seller.

ARTICLE IX: FACILITY AND INTERCONNECTION

- 9.1 Design of Facility - Seller will design, construct, install, own, operate and maintain the Facility and any Seller-owned Interconnection Facilities so as to allow safe and reliable generation and delivery of Net Energy and Inadvertent Energy to the Idaho Power Point of Delivery for the full term of the Agreement in accordance with the GIA.

ARTICLE X:

METERING, METERING COMMUNICATIONS AND SCADA TELEMETRY

- 10.1 Metering - Idaho Power shall, provide, install, and maintain metering equipment needed for metering the electrical energy production from the Facility. The metering equipment will be capable of measuring, recording, retrieving and reporting the Facility's hourly gross electrical energy production, Station Use, maximum energy deliveries (kW) and any other energy measurements at the Point of Delivery that Idaho Power needs to administer this Agreement and integrate this Facility's energy production into the Idaho Power electrical system. Specific equipment, installation details and requirements for this metering equipment will be established in the GIA process and documented in the GIA. Seller shall be responsible for all initial and ongoing costs of this equipment as specified in Schedule 72 and the GIA.
- 10.2 Metering Communications - Seller shall, at the Seller's sole initial and ongoing expense, arrange for, provide, install, and maintain dedicated metering communications equipment capable of transmitting the metering data specified in paragraph 10.1 to Idaho Power in a frequency, manner and form acceptable to Idaho Power. Seller shall grant Idaho Power sole control and use of this

dedicated metering communications equipment. Specific details and requirements for this metering communications equipment will be established in the GIA process and documented in the GIA.

- 10.3 Supervisory Control and Data Acquisition (SCADA) Telemetry – In addition to the requirements of paragraph 10.1 and 10.2, Idaho Power may require telemetry equipment and telecommunications which will be capable of providing Idaho Power with continuous instantaneous SCADA telemetry of the Seller's Net Energy and Inadvertent Energy production in a form acceptable to Idaho Power. Seller shall grant Idaho Power sole control and use of this dedicated SCADA and telecommunications equipment. Specific details and requirements for this SCADA Telemetry and telecommunications equipment will be established in the GIA process and documented in the GIA. Seller shall be responsible for all initial and ongoing costs of this equipment as specified in Schedule 72 and the GIA.

ARTICLE XI - RECORDS

- 11.1 Maintenance of Records - Seller shall maintain monthly records at the Facility or such other location mutually acceptable to the Parties. These records shall include total generation, Net Energy, Station Use, Surplus Energy, Inadvertent Energy and maximum hourly generation in (kW) and be records in a form and content acceptable to Idaho Power. Monthly records shall be retained for a period of not less than five years.
- 11.2 Inspection - Either Party, after reasonable notice to the other Party, shall have the right, during normal business hours, to inspect and audit any or all records pertaining to the Seller's Facility generation, Net Energy, Station Use, Surplus Energy, Inadvertent Energy and maximum hourly generation in kW.

ARTICLE XII: OPERATIONS

12.1 Communications - Idaho Power and the Seller shall maintain appropriate operating communications through Idaho Power's Designated Dispatch Facility in accordance with the GIA.

12.2 Acceptance of Energy –

12.2.1 Idaho Power shall be excused from accepting and paying for Net Energy or accepting Inadvertent Energy which would have otherwise been produced by the Facility and delivered by the Seller to the Point of Delivery:

- a.) If energy deliveries are interrupted due an event of Force Majeure or Forced Outage.
- b.) If interruption of energy deliveries is allowed by Section 210 of the Public Utility Regulatory Policies Act of 1978 and 18 CFR §292.304
- c.) If temporary disconnection and/or interruption of energy deliveries is in accordance with Schedule 72 or other provisions as specified within the GIA.
- d.) If Idaho Power determines that curtailment, interruption or reduction of Net Energy or Inadvertent Energy deliveries is necessary because of line construction, electrical system maintenance requirements, emergencies, electrical system operating conditions, electrical system reliability emergencies on its system, or as otherwise required by Prudent Electrical Practices.

12.2.2 If, in the reasonable opinion of Idaho Power, Seller's operation of the Facility or Interconnection Facilities is unsafe or may otherwise adversely affect Idaho Power's equipment, personnel or service to its customers, Idaho Power may temporarily disconnect the Facility from Idaho Power's transmission/distribution system as specified within the GIA or Schedule 72 or take such other reasonable steps as Idaho Power deems appropriate.

12.2.3 Under no circumstances will the Seller deliver energy from the Facility to the Point of Delivery in an amount that exceeds the Maximum Capacity Amount at any moment in time. Seller's failure to limit deliveries to the Maximum Capacity Amount will be a Material Breach of this Agreement.

12.2.4 If Idaho Power is unable to accept the energy from this Facility and is not excused from accepting the Facility's energy, Idaho Power's damages shall be limited to only the value of the estimated energy that Idaho Power was unable to accept valued at the applicable energy prices specified in Appendix E or Appendix F. Idaho Power will have no responsibility to pay for any other costs, lost revenue or consequential damages the Facility may incur.

12.3 Seller Declared Suspension of Energy Deliveries

12.3.1 If the Seller's Facility experiences a Forced Outage, and Seller initiates a Declared Suspension of Energy Deliveries, Seller shall, after giving notice as provided in paragraph 12.3.2 below, temporarily reduce deliveries of Net Energy (kW) to Idaho Power from the Facility to not exceed the reduced energy deliveries (kW) stated by the Seller in the initial declaration for a period of not less than 48 hours. ("Declared Suspension of Energy Deliveries"). The Seller's Declared Suspension of Energy Deliveries will begin at the start of the next full hour following the Seller's telephone notification as specified in paragraph 12.3.2 and will continue for the time as specified (not less than 48 hours) in the written notification provided by the Seller. In the month(s) in which the Declared Suspension of Energy occurred, the Estimated Net Energy Amount will be adjusted as specified in paragraph 6.2.3.

12.3.2 If the Seller desires to initiate a Declared Suspension of Energy Deliveries as provided in paragraph 12.3.1, the Seller will 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 Idaho Power. The Seller will, within 24 hours after the telephone contact, provide Idaho Power a written notice in

accordance with Article XXV that will contain the beginning hour and duration of the Declared Suspension of Energy Deliveries, a description of the conditions that caused the Seller to initiate a Declared Suspension of Energy Deliveries, and the reduced level (kW) of energy deliveries the Facility is requesting that will be set as the maximum energy deliveries to Idaho Power for the duration of the Declared Suspension of Energy Delivery event (not less than 48 hours). Idaho Power will review the documentation provided by the Seller to determine Idaho Power's acceptance of the described Forced Outage as qualifying for a Declared Suspension of Energy Deliveries as specified in paragraph 12.3.1. Idaho Power's acceptance of the Seller's Forced Outage as an acceptable Forced Outage will be based upon the clear documentation provided by the Seller 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 Seller's Facility.

12.4 Scheduled Maintenance – On or before January 31st of each calendar year, Seller shall submit a written proposed maintenance schedule of significant Facility maintenance for that calendar year and Idaho Power and Seller shall mutually agree as to the acceptability of the proposed schedule. If the Seller intends to perform planned maintenance at approximately the same time every year, the Seller may submit a maintenance schedule for the first calendar year and include a statement that this maintenance schedule shall be consistent for all future years, until such time as the Seller notifies Idaho Power of a change to this schedule. The Parties determination as to the acceptability of the Seller's timetable for scheduled maintenance will take into consideration Prudent Electrical Practices, Idaho Power system requirements and the Seller's preferred schedule. Neither Party shall unreasonably withhold acceptance of the proposed maintenance schedule.

12.5 Idaho Power Maintenance Information – Upon receiving a written request from the Seller, Idaho Power shall provide publically available information in regards to Idaho Power planned maintenance information that may impact the Facility.

12.6 Contact Prior to Curtailment - Idaho Power will make a reasonable attempt to contact the Seller

prior to exercising its rights to interrupt interconnection or curtail deliveries from the Seller's Facility. Seller understands that in the case of emergency circumstances, real time operations of the electrical system, and/or unplanned events, Idaho Power may not be able to provide notice to the Seller prior to interruption, curtailment, or reduction of electrical energy deliveries to Idaho Power.

ARTICLE XIII: INDEMNIFICATION AND INSURANCE

- 13.1 Indemnification - Each Party shall agree to hold harmless and to indemnify the other Party, its officers, agents, affiliates, subsidiaries, parent company and employees against all loss, damage, expense and liability to third persons for injury to or death of person or injury to property, proximately caused by the indemnifying Party's, (a) construction, ownership, operation or maintenance of, or by failure of, any of such Party's works or facilities used in connection with this Agreement, or (b) negligent or intentional acts, errors or omissions. The indemnifying Party shall, on the other Party's request, defend any suit asserting a claim covered by this indemnity. The indemnifying Party shall pay all documented costs, including reasonable attorney fees that may be incurred by the other Party in enforcing this indemnity.
- 13.2 Insurance - During the term of this Agreement, Seller shall secure and continuously carry insurance as specified in Appendix H.

ARTICLE XIV: FORCE MAJEURE

- 14.1 As used in this Agreement, "Force Majeure" or "an event of Force Majeure" means any cause beyond the control of the Seller or of Idaho Power which, despite the exercise of due diligence, such Party is unable to prevent or overcome. Force Majeure includes, but is not limited to, acts of God, fire, flood, storms, wars, hostilities, civil strife, strikes and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, or changes in law or regulation occurring after the effective date, which, by the exercise of reasonable foresight such party could not reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to overcome.

Fluctuations and/or changes of the motive force and/or the fuel supply **are not** events of Force Majeure. If either Party is rendered wholly or in part unable to perform its obligations under this Agreement because of an event of Force Majeure, both Parties shall be excused from whatever performance is affected by the event of Force Majeure, provided that:

- (1) The non-performing Party shall, as soon as is reasonably possible after the occurrence of the Force Majeure, give the other Party written notice describing the particulars of the occurrence.
- (2) The suspension of performance shall be of no greater scope and of no longer duration than is required by the event of Force Majeure.
- (3) No obligations of either Party which arose before the occurrence causing the suspension of performance and which could and should have been fully performed before such occurrence shall be excused as a result of such occurrence.

ARTICLE XV: LIABILITY; DEDICATION

15.1 Limitation of Liability. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. Neither party shall be liable to the other for any indirect, special, consequential, nor punitive damages, except as expressly authorized by this Agreement.

15.2 Dedication. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the Party or the public or affect the status of Idaho Power as an independent public utility corporation or Seller as an independent individual or entity.

ARTICLE XVI: SEVERAL OBLIGATIONS

16.1 Except where specifically stated in this Agreement to be otherwise, the duties, obligations and liabilities of the Parties are intended to be several and not joint or collective. Nothing contained

in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or impose a trust or partnership duty, obligation or liability on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this Agreement.

ARTICLE XVII: WAIVER

- 17.1 Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or other matter.

ARTICLE XVIII: CHOICE OF LAWS AND VENUE

- 18.1 This Agreement shall be construed and interpreted in accordance with the laws of the State of Idaho without reference to its choice of law provisions.
- 18.2 Venue for any litigation arising out of or related to this Agreement will lie in the District Court of the Fourth Judicial District of Idaho in and for the County of Ada.

ARTICLE XIX: DISPUTES AND DEFAULT

- 19.1 Disputes - All disputes related to or arising under this Agreement, including, but not limited to, the interpretation of the terms and conditions of this Agreement, will be submitted to the Commission for resolution.

19.2 Notice of Default

- 19.2.1 Defaults. If either Party fails to perform any of the terms or conditions of this Agreement (an “event of default”), the non-defaulting Party shall cause notice in writing to be given to the defaulting Party, specifying the manner in which such default occurred. If the defaulting Party shall fail to cure such default within the sixty (60) days after service of such notice, or if the defaulting Party reasonably demonstrates to the other Party that the default can be cured within a commercially reasonable time but not within such sixty (60) day period and then fails to diligently

pursue such cure, then the non-defaulting Party may, at its option, terminate this Agreement and/or pursue its legal or equitable remedies.

19.2.2 Material Breaches – The notice and cure provisions in paragraph 19.2.1 do not apply to defaults identified in this Agreement as Material Breaches. Material Breaches must be cured as expeditiously as possible following occurrence of the breach or if a specific cure and/or inability to cure is identified by this Agreement for the specific Material Breach then that cure shall apply.

19.3 Prior to the Operation Date and thereafter for the full term of this Agreement, Seller will provide Idaho Power with the following:

19.3.1 Insurance - Evidence of compliance with the provisions of Appendix H. If Seller fails to comply, such failure will be a Material Breach and may only be cured by Seller supplying evidence that that required insurance coverage has been replaced or reinstated.

19.3.2 Debt Service Reserve Account – The Seller will establish a debt service reserve account. If the Facility has established a debt service reserve account in a form and amount that meets or exceeds the Debt Service Reserve Account requirements as defined below for compliance with other parties having a financial interest in this Facility, the Seller shall provide Idaho Power with documentation of those requirements and upon Idaho Power's acceptance that the financial debt service reserve requirements meet or exceed the requirements within this Agreement, Idaho Power will accept this financial debt service reserve account as meeting these requirements. If Idaho Power accepts this financial debt service reserve account it will be required that within 60 days of the end of each Contract Year the Seller provide Idaho Power documentation of the balance within the financial debt service reserve account and the previous year's activity within the account. Idaho Power reserves the right to require the Seller to provide a Debt Service Reserve Account as specified below at any time during the term of this Agreement if Idaho Power determines that

the Seller's financial debt reserve account no longer meets or exceeds these requirements. Said debt service reserve account will be separate from the maintenance reserve account and shall be structured as follows:

19.3.2.1 All funds will be prudently invested, in a guaranteed, insured account and all cost of implementing and operating the Debt Service Reserve Account shall be paid by the Seller. All interest earned on the funds on deposit will be retained in the Debt Service Reserve Account. At the end of the term of this Agreement, any balance remaining in the Debt Service Reserve Account shall be the property of the Seller.

19.3.2.2 Control of the Debt Service Reserve Account will be maintained by Idaho Power through the requirement of dual signatures on the account. The only authorized signers will be the Chief Operating Officer and the Chief Financial Officer of Idaho Power (or their respective designees) and the Treasurer of Seller (or his/her respective designee). Accordingly, funds will only be released from the Debt Service Reserve Account upon the signatures of both Idaho Power authorized signers or one Idaho Power authorized signer and Seller's authorized signer.

19.3.2.3 During the period of time in which the Facility acts as security for a first mortgage lien which is senior to Idaho Power's security interest in the Facility as described in paragraph 4.1.11, Seller shall maintain a debt service reserve account in cash or an irrevocable standby letter of credit in an amount equal to twenty percent (20 %) of the Facility's estimated gross Contract Year revenue rounded to the nearest \$1,000. The estimated gross Contract Year revenue is calculated to be the sum of the monthly Net Energy Amounts specified in paragraph 6.2 multiplied by the All Energy Price specified in paragraph 7.3.

19.3.2.4 During the period when the Facility is security for a first mortgage lien that

is senior to Idaho Power's lien, funds from the debt service reserve account will only be released to the holder of the first mortgage lien. Funds from said account shall be released only when, and only to the extent that Seller certifies to Idaho Power that after payment of all operating costs, the Facility's revenues are insufficient to make full debt service and/or lease payments on the Facility.

- 19.3.2.5 Upon full satisfaction of the above-referenced first mortgage lien and when Idaho Power's security interest becomes the senior security interest in the Facility, a withdrawal from the Debt Service Reserve Account may be requested by the Seller for the amount in the debt service reserve account which exceeds five percent (5%) of the Facility's estimated gross Contract Year revenue rounded to the nearest \$1,000. Seller shall maintain a debt service reserve account in cash or an irrevocable standby letter of credit in an amount equal to five percent (5%) of the Facility's estimated gross Contract Year revenue rounded to the nearest \$1,000.
- 19.3.2.6 During the period when Idaho Power's security interest is the senior security interest in the Facility, funds from the debt service reserve account will only be released to pay operating costs for the Facility.
- 19.3.2.7 For purposes of the debt service reserve account, operating costs are limited to those costs necessary for the operation of the Facility such as taxes, insurance expenses, lease payments and other ordinary and necessary operating expenses. Operating costs shall not include any disbursements other than lease payments which would constitute a profit or return on investment.
- 19.3.2.8 After any release of funds from the debt service reserve account, Seller shall be obligated to restore the debt service reserve account to the amounts provided for in paragraphs 19.3.2.3 or 19.3.2.5, whichever is applicable,

prior to Seller disbursing funds which would constitute a profit or return on investment. Until the debt service reserve account is fully restored, Seller will, within sixty (60) days of the completion of each Contract Year, provide Idaho Power with a report prepared by Seller's outside accountants showing Seller has not breached its obligations under this paragraph 19.3.2.

19.3.2.9 Any breach of paragraph 19.3.2 by Seller will constitute a Material Breach of this Agreement.

19.3.3 Engineer's Certifications - Every three (3) years after the Operation Date, Seller will supply Idaho Power with a Certification of Ongoing Operations and Maintenance (O&M) from a Registered Professional Engineer licensed in the State of Idaho, which Certification of Ongoing O&M shall be in the form specified in Appendix C. Seller's failure to supply the required certificate will be an event of default. Such a default may only be cured by Seller providing the required certificate; and

19.3.4 Licenses / Permits / Determinations - During the full term of this Agreement, Seller shall maintain compliance with all permits, licenses and determinations described in paragraph 4.1.1 of this Agreement. In addition, Seller will supply Idaho Power with copies of any new or additional permits, licenses or determinations. At least every fifth Contract Year, Seller will update the documentation described in Paragraph 4.1.1. If at any time Seller fails to maintain compliance with the permits, licenses and determinations described in paragraph 4.1.1 or to provide the documentation required by this paragraph, such failure will be an event of default and may only be cured by Seller submitting to Idaho Power evidence of compliance from the permitting agency.

ARTICLE XX: GOVERNMENTAL AUTHORIZATION

20.1 This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party of this Agreement.

ARTICLE XXI: COMMISSION ORDER

- 21.1 This Agreement shall only become finally effective upon the Commission's approval of all terms and provisions hereof without change or condition and declaration that all payments to be made to Seller hereunder shall be allowed as prudently incurred expenses for ratemaking purposes.

ARTICLE XXII: SUCCESSORS AND ASSIGNS

- 22.1 This Agreement and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto. Neither this Agreement nor any rights or obligations of either Party hereunder may be assigned, in whole or in part, by operation of law or otherwise, without the prior written consent of both Parties, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, any party which Idaho Power may consolidate, or into which it may merge, or to which it may convey or transfer substantially all of its electric utility assets, shall automatically, without further act, and without need of consent or approval by the Seller, succeed to all of Idaho Power's rights, obligations and interests under this Agreement. A transfer or change in the person or entities who control ten percent or more of the equity securities or voting interests of Seller (whether in a single or multiple separate transactions resulting in such a change in control of equity interests or voting securities) shall be deemed an assignment of this Agreement requiring prior written consent of Idaho Power for purposes of the foregoing. Any purported assignment in derogation of the foregoing shall be void. This article shall not prevent a financing entity with recorded or secured rights from exercising all rights and remedies available to it under law or contract. Idaho Power shall have the right to be notified by the financing entity that it is exercising such rights or remedies.

ARTICLE XXIII: MODIFICATION

- 23.1 No modification to this Agreement shall be valid unless it is in writing and signed by both Parties and subsequently approved by the Commission.

ARTICLE XXIV: TAXES

24.1 Each Party shall pay before delinquency all taxes and other governmental charges which, if failed to be paid when due, could result in a lien upon the Facility or the Interconnection Facilities.

ARTICLE XXV: NOTICES AND AUTHORIZED AGENTS

25.1 Notices - All written notices under this Agreement shall be directed as follows and shall be considered delivered when faxed, e-mailed and confirmed with deposit in the U.S. Mail, first-class, postage prepaid, as follows:

To Seller:

Original document to:

Name: Ted Sorenson, P.E.
Address: North Gooding Main Hydro LLC
5203 South 11th East
Idaho Falls, Idaho 83404
Telephone: 208-589-6908
Cell: 208-589-6908
E-mail: ted@tsorenson.net

To Idaho Power:

Original document to:

Vice President, Power Supply
Idaho Power Company
PO Box 70
Boise, Idaho 83707
Email: lgrow@idahopower.com

Copy of document to:

Cogeneration and Small Power Production
Idaho Power Company
PO Box 70
Boise, Idaho 83707
E-mail: rallphin@idahopower.com

Either Party may change the contact person and/or address information listed above, by providing written notice from an authorized person representing the Party.

25.2 Authorized Agent(s)

Name

Title

Authorized Agents as listed above may be modified by the Seller by requesting and completing an Authorized Agent modification document provided by Idaho Power. This document at minimum will include the requested changes and require signature(s) from an authorized party of the Seller.

ARTICLE XXVI: ADDITIONAL TERMS AND CONDITIONS

26.1 Equal Employment. During performance pursuant to this Agreement, Seller agrees to comply with all applicable equal employment opportunity, small business, and affirmative action laws and regulations. All Equal Employment Opportunity and affirmative action laws and regulations are hereby incorporated by this reference, including provisions of 38 U.S.C. § 4212, Executive Order 11246, as amended, and any subsequent executive orders or other laws or regulations relating to equal opportunity for employment on government contracts. To the extent this Agreement is covered by Executive Order 11246, the Equal Opportunity Clauses contained in 41 C.F.R. 60-1.4, 41 C.F.R. 60-250.5, and 41 CFR 60-741.5 are incorporated herein by reference.

26.2 Prior to the Seller executing this Agreement, the Seller shall have:

- a) Submitted an interconnection application for this Facility and is in compliance with all payments and requirements of the interconnection process.
- b) Acknowledged responsibility for all interconnection costs and any costs associated with acquiring adequate firm transmission capacity to enable the project to be classified as an

Idaho Power Designated Network Resource. If final interconnection or transmission studies are not complete at the time the Seller executes this Agreement, the Seller understands that the Seller's obligations to pay Delay and Termination Damages associated with the project's failure to achieve the Operation Date by the Scheduled Operation Date as specified in this Agreement is not relieved by final interconnection or transmission costs, processes or schedules.

- c) Provide acceptable and verifiable evidence to Idaho Power that demonstrates the Facility is eligible for the published avoided costs requested by the Seller and contained within this Agreement. Commission Order 33305 provides the current published avoided costs for Non-Seasonal Hydro Facilities, Seasonal Hydro Facilities, Other Facilities, Solar Facilities, and Wind Facilities.

26.3 This Agreement includes the following appendices, which are attached hereto and included by reference:

Appendix A	-	Generation Scheduling and Reporting
Appendix B	-	Facility and Point of Delivery
Appendix C	-	Engineer's Certifications
Appendix D	-	Forms of Liquid Security
Appendix E	-	Seasonal Hydro Facility Energy Prices
Appendix F	-	Non-Seasonal Hydro Facility Energy Prices
Appendix G	-	Accumulated Overpayment Amount
Appendix H	-	Insurance Requirements

ARTICLE XXVII: SEVERABILITY

27.1 The invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of any other terms or provisions and this Agreement shall be construed in all other respects as if the invalid or unenforceable term or provision were omitted.

ARTICLE XXVIII: COUNTERPARTS

28.1 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

ARTICLE XXIX: ENTIRE AGREEMENT

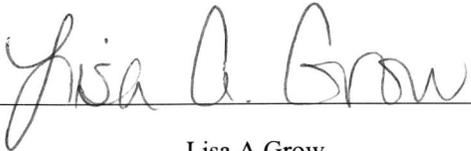
29.1 This Agreement constitutes the entire Agreement of the Parties concerning the subject matter hereof and supersedes all prior or contemporaneous oral or written agreements between the Parties concerning the subject matter hereof.

IN WITNESS WHEREOF, The Parties hereto have caused this Agreement to be executed in their respective names on the dates set forth below:

Idaho Power Company

North Gooding Main Hydro LLC

By



Lisa A Grow
Sr. Vice President, Power Supply

By



Ted S. Sorenson, P.E.

Dated

7.29.15

"Idaho Power"

Dated

7/23/2015

"Seller"

APPENDIX A

A -1 MONTHLY POWER PRODUCTION AND SWITCHING REPORT

At the end of each month the following required documentation will be submitted to:

Idaho Power Company
Attn: Cogeneration and Small Power Production
PO Box 70
Boise, Idaho 83707

The meter readings required on this report will be the readings on the Idaho Power meter equipment measuring the Facility's total energy production and Station Usage delivered to Idaho Power and the maximum generated energy (kW) as recorded on the metering equipment and/or any other required energy measurements to adequately administer this Agreement. This document shall be the document to enable Idaho Power to begin the energy payment calculation and payment process. The meter readings on this report may not be used to calculate the actual payment, but instead will be a check of the automated meter reading information that will be gathered as described in item A-2 below:

Idaho Power Company

Cogeneration and Small Power Production

MONTHLY POWER PRODUCTION AND SWITCHING REPORT

Month _____ Year _____

Project Name _____ Project Number: _____
 Address _____ Phone Number: _____
 City _____ State _____ Zip _____

	Facility Output	Station Usage	Metered Maximum Generation kW
Meter Number:	_____	_____	
End of Month kWh Meter Reading:	_____	_____	
Beginning of Month kWh Meter:	_____	_____	
Difference:	_____	_____	
Times Meter Constant:	_____	_____	
kWh for the Month:	_____	-	=
Metered Demand:	_____	_____	Net Generation

Breaker Opening Record

Breaker Closing Record

<u>Date</u>	<u>Time</u>	<u>Meter</u>

<u>* Reason</u>

<u>Date</u>	<u>Time</u>	<u>Meter</u>

- * **Breaker Opening Reason Codes**
- 1 Lack of Adequate Prime Mover
 - 2 Forced Outage of Facility
 - 3 Disturbance of IPCo System
 - 4 Scheduled Maintenance
 - 5 Testing of Protection Systems
 - 6 Cause Unknown
 - 7 Other (Explain)

I hereby certify that the above meter readings are true and correct as of Midnight on the last day of the above month and that the switching record is accurate and complete as required by the Energy Sales Agreement to which I am a Party.

Signature Date

A-2 AUTOMATED METER READING COLLECTION PROCESS

Monthly, Idaho Power will use the provided Metering and Telemetry equipment and processes to collect the meter reading information from the Idaho Power provided Metering Equipment that measures the Net Energy and energy delivered to supply Station Use for the Facility recorded at 12:00 AM (Midnight) of the last day of the month.

The meter information collected will include but not be limited to energy production, Station Use, the maximum generated power (kW) and any other required energy measurements to adequately administer this Agreement.

A-3 SELLER CONTACT INFORMATION

Seller's Contact Information

Project Management

Name: Ted S Sorenson P E
Telephone Number: 208-589-6908
Cell Phone: 208-589-6908
E-Mail: ted@tsorenson.net

24-Hour Project Operational Contact

Name: Ted S Sorenson P E
Telephone Number: 208-589-6908
Cell Phone: 208-589-6908
E-Mail: ted@tsorenson.net

Project On-site Contact information

Name: Mike Jardine P E
Telephone Number: 208-589-6908
Cell Phone: 208-589-6908
E-Mail: mike@tsorenson.net

B-4 MAXIMUM CAPACITY AMOUNT:

This value will be 1.3 MW which is consistent with the value provided by the Seller to Idaho Power in accordance with the GIA. This value is the maximum energy (MW) that potentially could be delivered by the Seller's Facility to the Idaho Power electrical system at any moment in time.

B-5 POINT OF DELIVERY

"Point of Delivery" means, unless otherwise agreed by both Parties, the point of where the Seller's Facility energy is delivered to the Idaho Power electrical system. The GIA will determine the specific Point of Delivery for this Facility. The Point of Delivery identified by the GIA will become an integral part of this Agreement.

B-6 LOSSES

If the Idaho Power Metering equipment is capable of measuring the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, no Losses will be calculated for this Facility. If the Idaho Power Metering Equipment is unable to measure the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, a Losses calculation will be established to measure the energy losses (kWh) between the Seller's Facility and the Idaho Power Point of Delivery. This loss calculation will be initially set at 2% of the kWh energy production recorded on the Facility generation metering equipment. At such time as Seller provides Idaho Power with the electrical equipment specifications (transformer loss specifications, conductor sizes, etc.) of all of the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power will configure a revised loss calculation formula to be agreed to by both parties and used to calculate the kWh Losses for the remaining term of the Agreement. If at any time during the term of this Agreement, Idaho Power or Seller determines that the loss calculation does not correctly reflect the actual kWh losses attributed to the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power may adjust the calculation and retroactively adjust the previous month's kWh loss calculations.

B-7 NETWORK RESOURCE DESIGNATION

Idaho Power cannot accept or pay for generation from this Facility until the Facility has achieved the status of being an Idaho Power designated network resource (“DNR”). Federal Energy Regulatory Commission (“FERC”) rules require Idaho Power to prepare and submit the application to achieve DNR status for this Facility. Because much of the information Idaho Power needs to prepare the DNR application is specific to the Seller’s Facility, Idaho Power’s ability to file the DNR application in a timely manner is contingent upon timely receipt of the required information from the Seller. Prior to Idaho Power beginning the process to enable Idaho Power to submit a request for DNR status for this Facility, the Seller shall have 1) filed a Generation Interconnection application, 2) submitted all information required by Idaho Power to complete the application, and 3) either executed this Agreement or, at a minimum, provided Idaho Power with confirmation of the Seller’s intent to complete this Agreement in a timely manner. **Seller’s failure to provide complete and accurate information in a timely manner can significantly impact Idaho Power’s ability and cost to attain the DNR designation for the Seller’s Facility and the Seller shall bear the costs of any of these delays that are a result of any action or inaction by the Seller.**

APPENDIX C

ENGINEER'S CERTIFICATION

OF

OPERATIONS & MAINTENANCE POLICY

The undersigned _____, on behalf of himself/herself and _____, hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter referred to as the "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as Idaho Power Company Facility No. _____ and is hereinafter referred to as the "Project."
4. That the Project, which is commonly known as the _____ Project, is located in Section _____ Township _____ Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a _____ year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has reviewed and/or supervised the review of the Policy for Operation and Maintenance ("O&M") for this Project and it is his professional opinion that, said Project has been designed and built to appropriate standards, and adherence to said O&M Policy will result in the Project's

producing at or near the design electrical output, efficiency and plant factor for the full Contact Term of _____ years.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his/her knowledge and therefore sets his/her hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C
ENGINEER'S CERTIFICATION
OF
ONGOING OPERATIONS AND MAINTENANCE

The undersigned _____, on behalf of himself/herself and _____ hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter referred to as the "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as Idaho Power Company Facility No. _____ and hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located in Section _____ Township _____ Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a _____ year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.

8. That Engineer has made a physical inspection of said Project, its operations and maintenance records since the last previous certified inspection. The Engineer certifies, based on the Project's appearance and the information provided by the Project, that the Project's ongoing O&M has been completed in accordance with said O&M Policy; that it is in reasonably good operating condition; and it is in the Engineer's professional opinion that if adherence to said O&M Policy continues, the Project will continue producing at or near its design electrical output, efficiency and plant factor for the remaining _____ years of the Agreement.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his/her knowledge and therefore sets his/her hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C

ENGINEER'S CERTIFICATION
OF
DESIGN & CONSTRUCTION ADEQUACY

The undersigned _____, on behalf of himself/herself and _____ hereinafter collectively referred to as "Engineer", hereby states and certifies to Idaho Power as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter referred to as the "Agreement", between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project, which is the subject of the Agreement and this Statement, is identified as Idaho Power Company Facility No _____ and is hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located in Section _____ Township _____ Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a _____ year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project and has made the analysis of the plans and specifications independently.
8. That Engineer has reviewed the engineering design and construction of the Project, including the civil work, electrical work, generating equipment, prime mover conveyance system, Seller furnished Interconnection Facilities and other Project facilities and equipment.

9. That the Project has been constructed in accordance with said plans and specifications, all applicable codes and consistent with Prudent Electrical Practices as that term is described in the Agreement.

10. That the design and construction of the Project is such that with reasonable and prudent operation and maintenance practices by Seller, the Project is capable of performing in accordance with the terms of the Agreement and with Prudent Electrical Practices for a _____ year period.

11. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, in interconnecting the Project with its system, is relying on Engineer's representations and opinions contained in this Statement.

12. That Engineer certifies that the above statements are complete, true and accurate to the best of his/her knowledge and therefore sets his/her hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX D

FORMS OF LIQUID SECURITY

The Seller shall provide Idaho Power with commercially reasonable security instruments such as Cash, Cash Escrow Security, Guarantee or Letter of Credit as those terms are defined below or other forms of liquid financial security that would provide readily available cash to Idaho Power to satisfy the Security Deposit requirement and any other security requirements within this Agreement.

For the purpose of this Appendix D, the term “Credit Requirements” shall mean acceptable financial creditworthiness of the entity providing the security instrument in relation to the term of the obligation in the reasonable judgment of Idaho Power, provided that any guarantee and/or Letter of Credit issued by any other entity with a short-term or long-term investment grade credit rating by Standard & Poor’s Corporation or Moody’s Investor Services, Inc. shall be deemed to have acceptable financial creditworthiness.

1. Cash – Seller shall deposit cash in the amount of the required Security Deposit with Idaho Power. Idaho Power will not be responsible to calculate or pay any interest on these funds deposited with Idaho Power.
2. Cash Escrow Security – Seller shall deposit funds in an escrow account established by the Seller in a banking institution acceptable to both Parties equal to the required security amount(s). A single escrow account may be established for all security requirements, however detailed accounting of the individual security requirements must be maintained by the Seller and Seller shall be obligated to maintain the appropriate amounts to satisfy each security requirement within the individually identified accounts. The Seller shall be responsible for all costs
3. Guarantee or Letter of Credit Security – Seller shall post and maintain in an amount equal to the Security Deposit: (a) a guaranty from a party that satisfies the Credit Requirements, in a

form acceptable to Idaho Power at its discretion, or (b) an irrevocable Letter of Credit in a form acceptable to Idaho Power, in favor of Idaho Power. The Letter of Credit will be issued by a financial institution acceptable to both parties. A single aggregate Guarantee or Letter of Credit may be provided for all security requirements, however detailed accounting of the individual security requirements must be maintained by the Seller and Seller shall be obligated to maintain the appropriate amounts to satisfy each security requirement within the individually identified accounts. The Seller shall be responsible for all costs associated with establishing and maintaining the Guarantee(s) or Letter(s) of Credit.

APPENDIX E

SEASONAL HYDRO FACILITY ENERGY PRICES

(Prices based on 1.3 MW of Capacity)

E-1 Base Energy Heavy Load Purchase Price – For all Base Energy received during Heavy Load Hours, Idaho Power will pay the levelized energy price for a Facility scheduled to come on-line during calendar year 2017, for a Contract Term of twenty (20) years in accordance with Commission Order 33305, adjusted in accordance with Commission Order 30415 for Heavy Load Hour Energy deliveries, and with seasonalization factors as specified below:

Season 1 - (73.50 %)	Season 2 - (120.00 %)	Season 3 - (100.00 %)
Mills/kWh	Mills/kWh	Mills/kWh
65.25	106.54	88.78

E-2 Base Energy Light Load Purchase Price – For all Base Energy received during Light Load Hours, Idaho Power will pay the levelized energy price for a Facility scheduled to come on-line during calendar year 2017, for a Contract Term of twenty (20) years in accordance with Commission Order 33305, adjusted in accordance with Commission Order 30415 for Heavy Load Hour Energy deliveries, and with seasonalization factors as specified below:

Season 1 - (73.50 %)	Season 2 - (120.00 %)	Season 3 - (100.00 %)
Mills/kWh	Mills/kWh	Mills/kWh
59.90	97.80	81.50

E-3 All Hours Energy Price – The price to be used in the calculation of the Surplus Energy Price and Delay Damage Price shall be the levelized energy price for a Facility scheduled to come on-line during calendar year 2017, for a Contract Term of twenty (20) years in accordance with Commission Order 33305 and with seasonalization factors as specified below:

Season 1 - (73.50 %)	Season 2 - (120.00 %)	Season 3 - (100.00 %)
Mills/kWh	Mills/kWh	Mills/kWh
62.87	102.65	85.54

APPENDIX E

SEASONAL HYDRO FACILITY ENERGY PRICES

(Prices based on 1.3 MW of Capacity)

E-1 Base Energy Heavy Load Purchase Price – For all Base Energy received during Heavy Load Hours, Idaho Power will pay the levelized energy price for a Facility scheduled to come on-line during calendar year 2017, for a Contract Term of twenty (20) years in accordance with Commission Order 33305, adjusted in accordance with Commission Order 30415 for Heavy Load Hour Energy deliveries, and with seasonalization factors as specified below:

Season 1 - (73.50 %)	Season 2 - (120.00 %)	Season 3 - (100.00 %)
Mills/kWh	Mills/kWh	Mills/kWh
65.25	106.54	88.78

E-2 Base Energy Light Load Purchase Price – For all Base Energy received during Light Load Hours, Idaho Power will pay the levelized energy price for a Facility scheduled to come on-line during calendar year 2017, for a Contract Term of twenty (20) years in accordance with Commission Order 33305, adjusted in accordance with Commission Order 30415 for Heavy Load Hour Energy deliveries, and with seasonalization factors as specified below:

Season 1 - (73.50 %)	Season 2 - (120.00 %)	Season 3 - (100.00 %)
Mills/kWh	Mills/kWh	Mills/kWh
59.90	97.80	81.50

E-3 All Hours Energy Price – The price to be used in the calculation of the Surplus Energy Price and Delay Damage Price shall be the levelized energy price for a Facility scheduled to come on-line during calendar year 2017, for a Contract Term of twenty (20) years in accordance with Commission Order 33305 and with seasonalization factors as specified below:

Season 1 - (73.50 %)	Season 2 - (120.00 %)	Season 3 - (100.00 %)
Mills/kWh	Mills/kWh	Mills/kWh
62.87	106.54	85.54

APPENDIX F

NON-SEASONAL HYDRO FACILITY ENERGY PRICES

(Prices based on 1.3 MW of Capacity)

F-1 Base Energy Heavy Load Purchase Price – For all Base Energy received during Heavy Load Hours, Idaho Power will pay the levelized energy price for a Facility scheduled to come on-line during calendar year 2017, for a Contract Term of twenty (20) years in accordance with Commission Order 33305, adjusted in accordance with Commission Order 30415 for Heavy Load Hour Energy deliveries, and with seasonalization factors as specified below:

Season 1 - (73.50 %)	Season 2 - (120.00 %)	Season 3 - (100.00 %)
Mills/kWh	Mills/kWh	Mills/kWh
54.73	89.36	74.46

F-2 Base Energy Light Load Purchase Price – For all Base Energy received during Light Load Hours, Idaho Power will pay the levelized energy price for a Facility scheduled to come on-line during calendar year 2017, for a Contract Term of twenty (20) years in accordance with Commission Order 33305, adjusted in accordance with Commission Order 30415 for Heavy Load Hour Energy deliveries, and with seasonalization factors as specified below:

Season 1 - (73.50 %)	Season 2 - (120.00 %)	Season 3 - (100.00 %)
Mills/kWh	Mills/kWh	Mills/kWh
49.38	80.62	67.18

F-3 All Hours Energy Price – The price to be used in the calculation of the Surplus Energy Price and Delay Damage Price shall be the levelized energy price for a Facility scheduled to come on-line during calendar year 2017, for a Contract Term of twenty (20) years in accordance with Commission Order 33305 and with seasonalization factors as specified below:

Season 1 - (73.50 %)	Season 2 - (120.00 %)	Season 3 - (100.00 %)
Mills/kWh	Mills/kWh	Mills/kWh
52.35	85.47	71.22

APPENDIX G

ACCUMULATED OVERPAYMENT AMOUNT

PROJECT NUMBER: 20150729

The accumulated total of:

The monthly Initial Year Monthly Net Energy Amounts specified in paragraph 6.2.1 multiplied by the All Hours Energy Price (Mill/kWh) specified in paragraph 7.3 less the same monthly Initial Year Monthly Net Energy Amounts specified in paragraph 6.2.1 multiplied by the monthly, seasonalized, Non Levelized rates where the seasonalization factors are the same as identified in paragraph 7.3 and Non Levelized rates are in accordance with IPUC order No. 33305 for all expired months of this Agreement and the next 12 months. In addition a cumulative interest Amount will be calculated on the expired month's Accumulated Overpayment Amount and included in the Accumulated Overpayment Amount based upon the Idaho Power overall allowed rate of return in the Idaho jurisdiction, which at the time of the signing of this agreement is 7.86 %.

This Accumulated Overpayment Amount will be initially calculated prior to the First Energy Date and then recalculated annually at the end of each Contract Year.

APPENDIX H

INSURANCE REQUIREMENTS

The Seller shall secure and continuously carry insurance as specified within this Appendix for the term of the Agreement.

Insurance Requirements:

1. All insurance required by this Agreement shall be placed with an insurance company with an A.M. Best Company rating of A- or better.
2. If the insurance coverage required in this Appendix is cancelled, materially changed or lapses for any reason, the Seller will immediately notify Idaho Power in writing. This notice will advise Idaho Power of the specific reason for cancellation, material change or lapse and the steps being taken to comply with these Insurance Requirements. Failure to provide this notice and to comply with these Insurance Requirements within 5 days of the cancellation, material change or lapse will constitute a Material Breach and Idaho Power may terminate this Agreement.
3. Prior to the First Energy date and subsequently within 10 days of the annual anniversary of the Operation Date, the Seller shall provide a Certificate of Insurance in the name of Idaho Power Company and list Idaho Power Company as an Additional Insured Endorsement and Waiver of Subrogation Endorsement. The Certificate of Insurance shall evidence the appropriate insurance coverage as required below:
 - a. Comprehensive General Liability Insurance for both bodily injury and property damage with limits equal to \$1,000,000, each occurrence, combined single limit. The deductible for such insurance shall be consistent with current Insurance Industry Utility practices for similar property.
 - b. All Risk Property Insurance with minimum limits not less than eighty percent (80%)

of the Total Cost of the Facility. The Property Insurance coverage must be written on a replacement cost basis and will include:

- i. Standard fire policy
- ii. Extended coverage endorsement; and
- iii. Vandalism and malicious mischief endorsement.
- iv. The deductible for such insurance shall be consistent with current Insurance Industry Utility practices for similar property.

c. Boiler and Machinery insurance with minimum limits not less than eighty percent (80%) of the total replacement cost of the equipment covered in (a) below:

- i. All boiler and machinery coverage must be written on a “comprehensive form” basis to provide coverage against the sudden and accidental breakdown of all boilers, machinery and electrical equipment, turbines, generators, and switchgear.
- ii. Coverage under this insurance must be written on a replacement cost basis; and
- iii. The deductible for such insurance shall be consistent with current Insurance Industry Utility practices for similar property.

d. Earthquake & Flood (catastrophic perils) Insurance with limits not less than eighty percent (80%) of the Total Cost of the Facility. The deductible for such insurance shall be consistent with current Insurance Industry Utility practices for similar property.

e. Business Interruption (Loss of Income) Insurance with minimum daily limits not less than twenty percent (20%) of the Facility’s estimated annual income;

- i. Coverage will include Seller’s loss of earnings when business operations are curtailed or suspended because of a loss due to an insured peril. Coverage

may be written on an actual loss sustained basis.

- ii. This insurance coverage must be endorsed to both the All Risk Property Insurance Policy and the Boiler and Machinery Insurance Policy;
- iii. The deductible for such insurance shall be consistent with current Insurance Industry Utility practices for similar property.
- iv. The estimated annual income shall be computed on the basis of the Net Energy Amounts contained in paragraph 6.2.

4. In the case of the insurance coverages described above items 3b, 3c, and 3d above, the Total Cost of the Facility will include any Seller-furnished Disconnection Equipment and/or Interconnection Facilities. The Total Cost of the Facility and total replacement cost of equipment will be adjusted either upward or downward to reflect the current replacement cost of the Facility or equipment. This adjustment will be based on either (1) an appraisal made by, or for, the Seller's insurance company, or (2) use of an approved "industrial cost trend index" published by a national insurer (i.e., Factory Mutual Engineering and Research Building Cost Index; Kemper Replacement Value Cost Trends - Industrial Machinery & Equipment; Industrial Risk Insurers, U.S. Replacement Cost Factors) (3) any other mutually agreed upon methodology of establishing the total replacement cost. Such adjustment shall be made, at a minimum, every fifth Contract Year during the term of this Agreement. A copy of these computations and/or appraisals will be submitted to Idaho Power for Idaho Power's review and approval.
5. Insurance Alternatives - Comprehensive General Liability Insurance as defined above in item 3a, will be required at all times throughout the term of this agreement. Alternative arrangements creating equivalent protection for Idaho Power in lieu of the insurance requirements specified above in items 3b, 3c, 3d, and 3e may be submitted to Idaho Power for review. Only upon Idaho Power's written acceptance of these alternate arrangements may the Seller be allowed to forgo the insurance requirements as specified in items

3b, 3c, 3d, and 3e. Any and all acceptable alternative arrangements must place Idaho Power in an equal or better position in the event of the occurrence of an insurable event.