

**SECOND AMENDATORY POWER SALES CONTRACT**

**BETWEEN**

**INTERMOUNTAIN POWER AGENCY**

**AND**

**HYRUM CITY CORPORATION**

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## SECOND AMENDATORY POWER SALES CONTRACT

1. **PARTIES:** This Second Amendatory Power Sales Contract, dated as of \_\_\_\_\_, ~~2013~~201, by and between INTERMOUNTAIN POWER AGENCY, a political subdivision of the State of Utah, hereinafter designated as “IPA” and HYRUM CITY CORPORATION (also known as CITY OF HYRUM), hereinafter designated as the “Purchaser”. Each of IPA and Purchaser is referred to individually under this Second Amendatory Power Sales Contract as a “Party” and together they are referred to as “Parties”.

2. **RECITALS:** This Second Amendatory Power Sales Contract is made with reference to the following matters, among others.

2.1 IPA has heretofore entered into Power Sales Contracts providing for the sale by IPA of the electric power and energy and associated rights to transmission capacity of the Intermountain Power Project (the “Project”) to certain electric utilities (including the Purchaser) in Utah and in California, and such Power Sales Contracts, in the case of such Utah utilities, are dated as of September 28, 1978 and, in the case of such California utilities, are dated as of August 6, 1980, and each of such Power Sales Contracts has been heretofore amended by the parties thereto. Unless otherwise provided herein, all such Power Sales Contracts (except the Power Sales Contract by IPA with PacifiCorp which is to be terminated as provided in Section 46 of the Power Sales Contracts as added by this Second Amendatory Power Sales Contract), as so amended and as hereafter amended, are herein collectively referred to as the “Power Sales Contracts” and the Power Sales Contract with the Purchaser, as so amended and as hereafter amended, is herein referred to as the “Power Sales Contract”. The Utah utilities and the California

- 2.6 In connection with such gas repowering of the Project, it is also necessary to provide for the renewal of the Power Sales Contracts in accordance with Section 33 thereof, as amended by the Second Amendatory Power Sales Contracts, for a renewal period beginning upon the expiration of the term of the Power Sales Contracts thereby providing for the payment by the Purchasers of reasonable debt service costs resulting from the financing of the capital costs of the gas repowering through the issuance by IPA of its long-term bonds with amortization periods extending into the renewal period.
- 2.7 In connection with the gas repowering, the Purchaser and IPA desire to make certain other changes and additions to the Power Sales Contract as set forth in this Second Amendatory Power Sales Contract.
- 2.8 In addition, PacifiCorp and IPA are to enter into a Final Amendatory Power Sales Contract (the “PacifiCorp Final Amendatory Contract”) that amends their Power Sales Contract to provide for the reduction of PacifiCorp’s 4% Generation Entitlement Share to 0% and the reduction of PacifiCorp’s 4% Generation Cost Share to 0% and, as a consequence, provides for the termination of the Power Sales Contract between PacifiCorp and IPA, thus terminating PacifiCorp’s participation in the Project; and the Second Amendatory Power Sales Contracts include, among others, amendments providing for a 4% increase of Los Angeles’ Generation Entitlement and Generation Cost Shares to correspond with such 4% reduction of the PacifiCorp Generation Entitlement and Generation Cost Shares.
- 2.9 In connection with and as a result of the termination of PacifiCorp’s participation in the Project, PacifiCorp and Los Angeles will terminate, as of the effective date

of the PacifiCorp Final Amendatory Contract, the Power Purchase Agreement, dated June 22, 1989, under which Los Angeles has purchased from PacifiCorp since 1989 power and energy equivalent to PacifiCorp's 4% Generation Entitlement Share for delivery at the Project Generation Station bus under terms the same as those for PacifiCorp's purchase of its 4% Generation Entitlement Share under its Power Sales Contract with IPA.

**3. AGREEMENT:** For and in consideration of the premises and the mutual covenants and agreements herein set forth, it is agreed by and between the Parties as follows:

**4. DEFINITIONS:** Except to the extent otherwise provided herein, all terms which are defined in Section 4 of the Power Sales Contract shall have the same meanings, respectively, in this Second Amendatory Power Sales Contract. In addition, Section 4 of the Power Sales Contract is hereby amended to add thereto the following definitions:

**4.1A Alternative Repowering:** Alternative Repowering shall have the meaning set forth in Section 44.6 as added by the Second Amendatory Power Sales Contracts.

**4.7 (A1) Capacity:** Capacity as used in Sections 45.1.7 and 45.1.8 as added by the Second Amendatory Power Sales Contracts with respect to the STS, the NTS or the Project Switchyard, shall have the meaning set forth in Section 45.1.7 as added by the Second Amendatory Power Sales Contracts.

**4.12 (A1) Excess Power Sales Agreement:** Excess Power Sales Agreement shall mean the Excess Power Sales Agreement, dated December 1, 1980, among Utah Purchasers, certain California Purchasers, an agent for the Utah Purchasers named therein, and a representative of such California Purchasers named therein, as amended or supplemented.

**4.12 (A2) Excess Renewal Power Sales Agreement:** Excess Renewal Power Sales Agreement shall have the meaning set forth in the Renewal Power Sales Contracts.

**4.12 (A3) Extension Term:** Extension Term shall have the meaning set forth in Section 45.1.2 as added by the Second Amendatory Power Sales Contracts.

**4.12 (A4) Extension Term Retirement Facilities and Properties:** Extension Term Retirement Facilities and Properties shall have the meaning set forth in Section 45.1.3 as added by the Second Amendatory Power Sales Contracts.

**4.12 (A5) Extension Term Retirement Plan:** Extension Term Retirement Plan shall have the meaning set forth in Section 45.1.4 as added by the Second Amendatory Power Sales Contracts.

**4.12 (A6) FAS 143:** FAS 143 shall mean the Statement of Financial Accounting Standards No. 143 issued by the FASB, as further affected or interpreted by additional FASB statements or FASB interpretations.

**4.12 (A7) FASB:** FASB shall mean the Financial Accounting Standards Board.

**4.13A Gas Repowering:** Gas Repowering shall have the meaning set forth in Section 44.1 as added by the Second Amendatory Power Sales Contracts.

**4.24A NTS:** NTS shall mean the Northern Transmission System.

**4.25B PacifiCorp:** PacifiCorp shall mean PacifiCorp, an Oregon corporation (successor to Utah Power & Light Company), and its successors and assigns.

**4.25C PacifiCorp Final Amendatory Contract:** PacifiCorp Final Amendatory Contract shall have the meaning set forth in the Recitals hereto.

**4.30A Project Switchyard:** Project Switchyard shall mean the switchyard described in Appendix C as comprising part of the Generation Station.

**4.32C Remaining Purchasers:** Remaining Purchasers shall have the meaning set forth in Section 47.1.5 as added by the Second Amendatory Power Sales Contracts.

**4.32D Renewal Contract Coordinating Committee:** Renewal Contract Coordinating Committee shall have the meaning set forth in the Renewal Power Sales Contracts.

**4.32E Renewal Offer:** Renewal Offer shall have the meaning set forth in Section 33.3 as added by the Second Amendatory Power Sales Contracts.

**4.32EF Renewal Power Sales Contracts:** Renewal Power Sales Contracts shall mean the Renewal Power Sales Contracts entered into by I.P.A. with the Purchasers accepting the Renewal Offer. The form of Renewal Power Sales Contract is included in Exhibit A to this Second Amendatory Power Sales Contract pursuant to Section 33.3 as added by this Second Amendatory Power Sales Contract.

**4.32FH Retired Generation and Related Facilities and Properties:** Retired Generation and Related Facilities and Properties shall have the meaning set forth in Section 44.2 as added by the Second Amendatory Power Sales Contracts.

**4.32GI Retirement Actions:** Retirement Actions shall mean, when used with respect to Retired Generation and Related Facilities and Properties under Section 44 or with respect to Extension Term Retirement Facilities and Properties under Section 45, (i) the rendering of the Retired Generation and Related Facilities and Properties or the Extension Term Retirement Facilities and Properties, as applicable, in a condition that complies with all then

applicable laws and all contractual obligations of I.P.A. with respect thereto; (ii) the dismantling and removal of the Retired Generation and Related Facilities and Properties or the Extension Term Retirement Facilities and Properties, as applicable, so as to restore the area impacted thereby, (iii) the rendering of the Retired Generation and Related Facilities and Properties or the Extension Term Retirement Facilities and Properties, as applicable, in a condition that, in I.P.A.'s reasonable discretion, is secure, safe, sanitary and sightly; and (iv) the insuring or otherwise protecting of I.P.A. from claims and liabilities that may arise with respect to such Retired Generation and Related Facilities and Properties or the Extension Term Retirement Facilities and Properties, as applicable. The term "Retirement Actions" includes the decommissioning and retirement of the Retired Generation and Related Facilities and Properties described in Section 44.2 as added by the Second Amendatory Power Sales Contracts or the decommissioning and retirement of the Extension Term Retirement Facilities and Properties described in Sections 45.1.3 and 45.1.4, in each case as applicable.

**4.32HJ Retirement Costs:** Retirement Costs shall mean, when used with respect to Retired Generation and Related Facilities and Properties under Section 44 or with respect to Extension Term Retirement Facilities and Properties under Section 45, the amounts payable with respect to the "asset retirement obligations" associated with the Retired Generation and Related Facilities and Properties or the Extension Term Retirement Facilities and Properties, as applicable, as determined pursuant to FAS 143 and consistent with the Section 44 Retirement Plan or the Extension Term Retirement Plan, as applicable. Such asset retirement obligations shall include, without limitation, all Retirement Actions. In determining such asset retirement costs, to the extent that FAS 143 requires that any probability be assigned to one or more elements of determining such costs (e.g., the degree of the decommissioning and remediation obligation and the potential costs for performing that obligation), a probability of 100% shall be assigned to the potential outcome that results in the highest potential asset retirement cost. The funds received from salvage of the Retired Generation and Related Facilities and Properties or the Extension Term Retirement Facilities and Properties, as applicable, shall be credited as provided in FAS 143 for purposes of calculating the amount required to fund such asset retirement obligations.

**4.32K Second Amendatory Power Sales Contract Effective Date:** Second Amendatory Power Sales Contract Effective Date shall have the meaning set forth in Section 26 of the Second Amendatory Power Sales Contracts.

**4.32JL Section 36 Facilities:** Section 36 Facilities shall mean rights, properties, facilities and appurtenances that pursuant to and as provided in Section 36 of the Power Sales Contracts are to be or have been sold, leased or otherwise made available by I.P.A. for the construction or operation of any generating unit or units, transmission facilities or other facilities or properties at the Project site that shall not be part of the Project.

**4.32KM Section 36 Facilities Agreement:** Section 36 Facilities Agreement shall mean any agreement or arrangement pursuant to which I.P.A. sells, leases or otherwise makes available Section 36 Facilities in accordance with Section 36 of the Power Sales Contracts for any generating unit or units, transmission facilities or other facilities or properties located at the Project site but not constituting part of the Project.

**4.32L Section 44 Retirement Plan:** Section 44 Retirement Plan shall have the meaning set forth in Section 44.2 as added by the Second Amendatory Power Sales Contracts.

**4.34(A1) STS:** STS shall mean the Southern Transmission System.

**4.34F Transition Project Indebtedness:** Transition Project Indebtedness shall mean Bonds or other obligations issued by I.P.A. prior to June 16, 2027 that by their terms shall be scheduled to remain outstanding after June 16, 2027; provided that no such Transition Project Indebtedness shall be incurred or authorized on or prior to the Entitlement Determination Date (as defined in the Renewal Power Sales Contracts).

**4.34G Transmission Service Agreements:** Transmission Service Agreements shall have the meaning set forth in Section 45.1.7 as added by the Second Amendatory Power Sales Contracts.

**4.34H Transmission Support Facilities:** Transmission Support Facilities shall have the meaning set forth in Section 45.1.8 as added by the Second Amendatory Power Sales Contracts.

**5. ADDITION OF SECTION 44:** A new Section 44 is hereby added to the Power Sales

Contract to read in its entirety as follows:

**44. GAS REPOWERING OF PROJECT GENERATION:**

**44.1** The gas repowering of the Generation Station shall constitute a Capital Improvement of the Project and shall include the construction and installation of two combined cycle power blocks, each with a design capacity of approximately 600 MW, provided that prior to the commencement of such construction and installation, a lesser design capacity for either or both of such combined cycle power blocks may be determined by the Coordinating Committee and the I.P.A. Board of Directors, subject, however, to the approval of the Renewal Contract Coordinating Committee ~~(as defined in the Renewal Power Sales Contract)~~ under the Renewal Power Sales Contracts; and provided further that if, pursuant to the Renewal Power Sales Contracts, such design capacity shall be reduced as a result of the termination of any one or more of the Renewal Power Sales Contracts, then the design capacity, as set forth above, shall be reduced as provided in the Renewal Power Sales Contracts, subject to any further reduction as provided hereunder. Such combined cycle power blocks shall replace the existing generating units and related facilities and properties of the Project. Each such power block includes natural gas-fired combustion turbine generating units, four heat recovery steam generators and two steam turbines, heat exchangers, zero liquid discharge systems and all equipment and facilities ancillary to such combined cycle power blocks including the potential use of mechanical draft cooling towers, re-circulating water system, and auxiliary cooling water; provided that upon authorization by the Coordinating Committee

and the I.P.A. Board of Directors (i) one of such combined cycle power blocks may be modified to include the existing steam turbine generator, or (ii) an addition to such combined cycle power blocks and related facilities may be installed consisting of selective catalytic reduction pollution control systems and related facilities for such combined cycle power blocks. The construction and installation of such combined cycle power blocks and all related equipment and facilities (including any modification or addition authorized as set forth above) are herein referred to as the “Gas Repowering”. Upon the effectiveness of an Alternative Repowering, if any, in accordance with Section 44.6 of the Power Sales Contracts, (a) as used in this contract, the term “Gas Repowering” shall mean such Alternative Repowering, and (b) without the need for consent of Purchaser (other than the affirmation, if any, of Purchaser’s representative that may be necessary for the Coordinating Committee or the Renewal Contract Coordinating Committee to take action to approve the revising of this contract as described in the remainder of this Section 44.1), this contract shall be revised to the extent determined by I.P.A., the Coordinating Committee and the Renewal Contract Coordinating Committee to be necessary to describe such Alternative Repowering as the source or sources of electric generation for the Project (the resulting revisions being the “Alternative Repowering Revisions”).

- 44.2** The Gas Repowering shall include the decommissioning and retirement from service of the then existing Project generating units and related facilities and properties that are replaced by or otherwise become no longer useful due to the construction or operation of the Gas Repowering, except to the extent that any such then existing generating unit or units and related facilities and properties shall constitute Section 36 Facilities and shall have been or are to be authorized by the I.P.A. Board of Directors and the Coordinating Committee to be sold, leased or otherwise made available for the construction or operation at the Project site of a generating unit or units, transmission facilities or other facilities or properties pursuant to Section 36 of the Power Sales Contract that are not to be used for the generation or transmission of power pursuant to the Power Sales Contracts or the Renewal Power Sales Contracts. Such then existing generating unit or units and related facilities and properties (exclusive of any Section 36 Facilities) to be so replaced or no longer used as part of the Project shall be decommissioned and retired and are herein referred to as “Retired Generation and Related Facilities and Properties”. The decommissioning and retirement of the Retired Generation and Related Facilities and Properties shall be performed consistent with Prudent Utility Practice and shall include (i) closure, dismantlement, salvaging and disposal of structures, equipment and facilities, (ii) remediation and reclamation of the affected Project site, including the on-site combustion by-product landfill, the bottom ash and recycling basins, the coal pile and the runoff and wastewater basins, all in

compliance with applicable environmental and safety laws and regulations, and (iii) performance of site reclamation and restoration obligations under applicable property agreements and under permits and licenses by governmental agencies, all as and to the extent approved by the I.P.A. Board of Directors and the Coordinating Committee as constituting part of the Gas Repowering; provided that the Retired Generation and Related Facilities and Properties shall exclude any Section 36 Facilities. The Gas Repowering shall not proceed without a plan (the “Section 44 Retirement Plan”) for performing all Retirement Actions and paying all Retirement Costs related to the Retired Generation and Related Facilities and Properties that shall have been approved by the I.P.A. Board of Directors and the Coordinating Committee. The performance of the Section 44 Retirement Plan shall constitute an obligation under the Power Sales Contracts. In the event that the Retirement Actions with respect to any of the Retired Generation and Related Facilities and Properties shall not have been completed by the Transition Date (as defined in the Renewal Power Sales Contracts), such Retirement Actions shall be continued and completed as shall be provided under the Renewal Power Sales Contracts and the amounts then estimated by I.P.A. to be required to pay Retirement Costs to complete such Retirement Actions shall be reserved by I.P.A. and applied to the Retirement Costs of such completion, all as shall be provided under the Renewal Power Sales Contracts.

- 44.3** The Gas Repowering shall be undertaken by I.P.A. as a Capital Improvement in accordance with the Power Sales Contracts ~~unless an alternative system or facility is identified, authorized and approved in accordance with Section 44.6.~~ I.P.A. and the Coordinating Committee, respectively, shall take the necessary action under and pursuant to the Power Sales Contracts so that the permitting, construction and installation of the Gas Repowering shall commence not later than January 1, 2020, so that the Gas Repowering shall be fully completed and in operation not later than July 1, 2025. Upon completion of its construction and testing each combined cycle power block of the Gas Repowering shall commence operation to supply the electric power generation of the Project in replacement of the then existing generating units and related facilities and properties, and I.P.A. shall cause the Description of the Project in Appendix C to each of the Power Sales Contracts to be revised to provide for such combined cycle power blocks and related equipment and facilities of the Gas Repowering as constituting the Generation Station of the Project in replacement of such existing generating units and related facilities and properties.
- 44.4** It is intended by the Parties that this Second Amendatory Power Sales Contract be subject to the acceptance by the Purchasers of the Renewal Offer so that all the required Generation Entitlement Shares are purchased in accordance with the Renewal Power Sales Contracts entered into by

Purchasers. Accordingly, notwithstanding anything to the contrary in this Second Amendatory Power Sales Contract or otherwise in the Power Sales Contracts, this Second Amendatory Power Sales Contract shall terminate, without any further action by the Parties, on the final date for acceptance of the Renewal Offer by Purchasers if the Renewal Offer shall not then have been accepted by Purchasers so that the Renewal Power Sales Contracts providing for one hundred percent (100%) of the Generation Entitlement Shares shall not then have been entered into and shall not be effective in accordance with the terms of the Renewal Offer; provided that, the provisions of Section 46 of the Power Sales Contracts as added by the Second Amendatory Power Sales Contracts shall not terminate but shall survive and continue in force and effect.

- 44.5 Unless otherwise approved by the Coordinating Committee, I.P.A. shall finance the Cost of Acquisition and Construction of the Gas Repowering by the issuance of its Bonds or other obligations constituting Transition Project Indebtedness. Such Cost of Acquisition and Construction shall include the Retirement Costs with respect to the Retired Generation and Related Facilities and Properties as provided in the Section 44 Retirement Plan.
- 44.6 The Parties recognize that ~~future development of new technologies or improvement of existing systems and facilities may produce an alternative generating system or facility to the Gas Repowering and~~ one or more modified versions of or alternatives to the Gas Repowering to provide for one or more sources of electric generation in addition to or in substitution, in whole or in part, for the Gas Repowering may be determined to provide increased benefits or to be otherwise advantageous for the Project. ~~In the event such an alternative system or facility shall be identified for the Project, it may replace the Gas Repowering as~~ (each such version or alternative being, an “Alternative Repowering”). No action taken in furtherance of designing, permitting, installing, financing or constructing the Gas Repowering shall constitute a modification or alternative to the Gas Repowering for purposes of this Section 44.6. In the event an Alternative Repowering, if any, is approved by I.P.A., the Coordinating Committee and the Renewal Contract Coordinating Committee, as of the date of such approval, such Alternative Repowering (i) shall be effective, (ii) shall replace any prior plan for repowering the Project, (iii) shall constitute the source of for electric generation of the Project, but only if for the Project and (iv) shall constitute a Capital Improvement approved by I.P.A., the Coordinating Committee and the Renewal Contract Coordinating Committee, but only if, prior to the date by which construction of the initial combined cycle power block of the Gas Repowering is to commence as provided in Section 44.3 or such earlier date as determined by I.P.A. and the Coordinating Committee, such

~~alternative system or facility~~Alternative Repowering shall be in full compliance with the following:

- 44.6.1** Such ~~alternative system or facility~~Alternative Repowering shall comply with all applicable laws ~~and~~, shall be authorized under the I.P.A. Organization Agreement and shall ~~also be authorized as a Capital Improvement under the Power Sales Contracts and Renewal Power Sales Contracts, including amendments thereof,~~ and be capable of supplying the electric generation of the Project ~~and~~(as determined by I.P.A., the Coordinating Committee and the Renewal Contract Coordinating Committee);
- 44.6.2** Such Alternative Repowering shall include the decommissioning and retirement from service of any units, facilities and properties (exclusive of any Section 36 Facilities) to be replaced or no longer to be used as part of the Project due to ~~the construction or operation of such alternative system or facility, all as shall be provided under the Power Sales Contracts and Renewal Power Sales Contracts, including amendments thereof;~~**44.6.2**  
~~Provision shall have been made for~~ the construction, ~~or~~ operation ~~and maintenance of such alternative system or facility~~of such Alternative Repowering, as provided with respect to such decommissioning and retirement under the Power Sales Contracts and Renewal Power Sales Contracts (as such may be amended from time to time);
- 44.6.3** The construction, operation and maintenance of such Alternative Repowering shall be, after giving effect to the Alternative Repowering Revisions, permitted under the Power Sales Contracts, the Construction Management and Operating Agreement and the Renewal Power Sales Contracts, ~~including amendments thereof (as such may be amended from time to time),~~ and under other Project ~~related~~ agreements, ~~each of which~~and such Alternative Repowering shall have received all required governmental regulatory approvals and other required consents or approvals, (including all approvals required by Purchaser's governing bodies); ~~and~~
- ~~44.6.3~~**44.6.4** The California Energy Commission shall have determined under applicable California law and regulations that the Renewal Power Sales Contracts of the California Purchasers, pursuant to which such ~~alternative system or facility~~Alternative Repowering shall provide, in whole or in part, the ~~purchased~~ electric capacity and energy purchased under the Renewal Power Sales Contracts, shall be in compliance with the applicable California emission performance standards and any other applicable requirements; and

44.6.5 The Alternative Repowering Revisions shall have been approved by I.P.A., the Coordinating Committee and the Renewal Contract Coordinating Committee simultaneous with or prior to the effectiveness of such Alternative Repowering and the Alternative Repowering Revisions shall be provided in writing to Purchaser.

44.7 The Parties agree that, notwithstanding anything to the contrary in the ~~forgoing~~foregoing provisions of this Section 44, in the event, as provided in Section 45.1, the Gas Repowering or an Alternative Repowering shall not be undertaken, the provisions set forth under Section 45 shall be applicable and shall be performed and complied with.

6. **ADDITION OF SECTION 45:** A new Section 45 is hereby added to read in its entirety as follows:

**45. GAS REPOWERING NOT UNDERTAKEN:**

45.1 So long as no Transition Project Indebtedness shall be outstanding or any and all Transition Project Indebtedness and the interest thereon shall be defeased and deemed paid under the applicable Bond Resolution or other security document, if I.P.A using its best commercial efforts shall be unable to undertake or cause the undertaking of the Gas Repowering (or an ~~alternative system or facility~~Alternative Repowering) as provided under Section 44 the Parties agree that, notwithstanding anything to the contrary in the Power Sales Contracts, the following shall occur and be performed:

45.1.1 The Renewal Power Sales Contracts and the Excess Renewal Power Sales Agreement, respectively, shall terminate as shall be provided therein.

45.1.2 Notwithstanding anything to the contrary in the Power Sales Contracts, the end of the term of the Power Sales Contracts on June 15, 2027 (or such later date that occurs pursuant to Section 26.1) shall be extended to the date on which the decommissioning and retirement of the Extension Term Retirement Facilities and Properties as provided in Section 45.1.3 shall be completed and paid for, but in no event later than January 1, 2032 (the term of such extension being referred to as the "Extension Term"). Such extension of the Power Sales Contracts for the Extension Term shall be for the sole purpose of performing the Retirement Actions with respect to the Extension Term Retirement Facilities and Properties as provided in this Section 45 and providing for the payment and collection of the Retirement Costs with respect to such Retirement Actions, and such Extension Term shall take place and shall be fully effective without any action on the part of the Purchaser or I.P.A..

all the Purchasers by I.P.A. under this Section 33. Such initial offer shall be in substantially the form set forth in Exhibit A to this Second Amendatory Power Sales Contract, including as part of such offer the forms of Offer Letter, Offer Acceptance, and the Renewal Power Sales Contract including the Excess Renewal Power Sales Agreement as Appendix D thereto. The offer by I.P.A. pursuant to this Section 33 shall be made in accordance with the provisions of such Renewal Power Sales Contract with respect to the Renewal Offer (as defined in such Renewal Power Sales Contract) and such offer is herein referred to as the “Renewal Offer”. In addition, as provided in the Renewal Power Sales Contract, each Utah Purchaser accepting the Renewal Offer shall be provided with an election to enter into the Excess Renewal Power Sales Agreement. Purchaser acknowledges that the compliance by [IPALPA](#) with the provisions of this Section 33.3 shall satisfy [IPALPA](#)’s obligations under Sections 33.1 and 33.2 of the Power Sales Contract.

**8. ADDITION OF SECTION 36.3:** A new Section 36.3 is hereby added to the Power Sales Contract to read in its entirety as follows:

**36.3** For the avoidance of doubt, the generating units and related facilities and properties that are replaced by the Gas Repowering include Project rights, properties, facilities and appurtenances that may be used or useful as Section 36 Facilities as provided in this Section 36 in connection with the construction and operation at the Project site of units, facilities and properties which will not be part of the Project.

**9. AMENDMENT OF SECTION 4.7:** Section 4.7 of the Power Sales Contract is hereby amended to read in its entirety as follows:

**4.7 Capital Improvements:** All renewals or replacements of or repairs, additions, improvements, modifications or betterment to the Project which are (i) consistent with Prudent Utility Practice and determined necessary by the Coordinating Committee to keep the Project in good operating condition or to prevent a loss of revenue therefrom, (ii) required by any governmental agency having jurisdiction over the Project, (iii) required by the Construction Management and Operating Agreement, or (iv) required by the Bond Resolution; provided, however, that Capital Improvements shall not include any generating unit added to the Project in addition to those included in the Project which shall continue to generate electric capacity and energy of the Project. For the avoidance of doubt, the Gas Repowering as described under Section 44 shall constitute a Capital Improvement.

**18. AMENDMENT OF SECTION 33.1:** Section 33.1 of the Power Sales Contract is

hereby amended to read in its entirety as follows:

**33.1** I.P.A hereby agrees that its existence as a political subdivision has been extended beyond June 15, 2027, and I.P.A. agrees to continue to operate the Project as an electric generating station and/or an electric transmission system, and agrees, if and to the extent then permitted by applicable law, to offer to all the Purchasers participation in the rights and benefits of the Project or such operating part thereof in proportion to their respective entitlements then existing under the Power Sales Contracts. Any such future participation shall be on substantially the terms and provisions provided in the form of Renewal Power Sales Contract included in Exhibit A to this Second Amendatory Power Sales Contract.

**19. AMENDMENT OF SECTION 36.2:** Section 36.2 of the Power Sales Contract is

hereby amended to read in its entirety as follows:

**36.2** I.P.A. may, with the approval of the Coordinating Committee, sell, lease, dispose of or otherwise make available such rights, properties, facilities and appurtenances for such construction or operation of other units, facilities or properties at the Project site; provided, however, such sale, lease, disposition or availability arrangement shall comply with all laws and governmental regulations applicable to ~~IPA~~I.P.A. or to any Purchaser, and shall not have a material adverse effect on the revenues or operations of ~~IPA~~I.P.A. or any Purchaser; and provided further that no such sale, lease, disposition or availability arrangement shall interfere with the construction and operation of the Project or adversely affect the eligibility for exemption from Federal income taxes of the interest paid, or to be paid, on the Bonds issued or to be issued by I.P.A. No such arrangement shall be entered into unless I.P.A. shall receive fair value therefor, as determined by I.P.A. and the Coordinating Committee, and all amounts received shall be credited against Cost of Acquisition and Construction or Monthly Power Costs, as appropriate, pursuant to the Power Sales Contracts. Section 36 Facilities Agreements providing for such an arrangement with respect to the availability, transfer and use of such rights, properties, facilities and appurtenances may be entered into by I.P.A., upon approval of the Coordinating Committee, with an entity or entities, including, without limitation, one or more members of I.P.A. or any entity formed under the Act which includes one or more members of I.P.A. I.P.A. shall use its reasonable efforts to enter into such Section 36 Facilities Agreements pursuant to this Section 36 to provide for, among other matters, the selling, leasing and/or making available to the other parties to such Section 36 Facilities Agreements of the property, rights, equipment and facilities that are required for the proper and economic use

or operation of facilities that are not to be used for the generation or transmission of power pursuant to the Renewal Power Sales Contracts.

**20. AMENDMENT OF SECTION 14.2:** Section 14.2 of the Power Sales Contract is

hereby amended to read in its entirety as follows:

**14.2** Additional Bonds may be issued by I.P.A. in accordance with the Power Sales Contracts and the provisions of the Bond Resolution at any time and from time to time in the event funds are required for the purpose of financing the Cost of Acquisition and Construction of a Capital Improvement; and at the request of the Coordinating Committee, I.P.A. shall use its best efforts to issue such Bonds.

**21. ADDITION OF SECTION 46:** A new Section 46 is hereby added to the Power Sales

Contract to read in its entirety as follows:

**46. AMENDMENTS RELATED TO TERMINATION OF PACIFICORP'S PARTICIPATION IN THE PROJECT; INCREASE OF LOS ANGELES' GENERATION ENTITLEMENT AND COST GENERATION SHARES.**

**46.1** The Purchaser hereby acknowledges and consents (i) to the PacifiCorp Final Amendatory Contract providing for the reduction of PacifiCorp's 4% Generation Entitlement Share to 0% and the reduction of PacifiCorp's 4% Generation Cost Share to 0% and, as a consequence, to the termination of the PacifiCorp Power Sales Contract, and (ii) to the increase from 44.617% to 48.617% (an increase of 4%) of Los Angeles' Generation Entitlement Share and the increase from 44.617% to 48.617% (an increase of 4%) of Los Angeles' Generation Cost Share. Effective on the Second Amendatory Power Sales Contract Effective Date, the Generation Entitlement Shares and the Generation Cost Shares of each respective Purchaser, and its Southern Transmission Cost Share or Northern Transmission Cost Share, as applicable, shall be as set forth in Appendix A to the Power Sales Contracts as attached to this Second Amendatory Power Sales Contract, and the Generation Entitlement Share to be delivered and the Delivery Point and Delivery Voltage KV-AC of each respective Purchaser on the Southern Transmission System or Northern Transmission System, as applicable, shall be as set forth in Appendix B to the Power Sales Contracts as attached to this Second Amendatory Power Sales Contract. For the avoidance of doubt, effective upon the Second Amendatory Power Sales Contract Effective Date, for the purposes of Section 5.7 of the Power Sales Contracts, the billings by ~~IPALP.A.~~ for Monthly Power Costs for the then current Power Supply Year with respect to PacifiCorp's 4% Generation Cost Share and the 4% increase of Los

Section 31 Refunding of 1982 Outstanding Bonds and Modifications of Generation Entitlement and Cost Shares

Section 39.1 Transmission Service

Section 41 Use of Southern Transmission System by Lay-off Power Purchasers; Payment of Certain Costs of Southern Transmission System

Section 42 Use of Northern Transmission System by Lay-off Power Purchasers; Payment of Certain Costs of Northern Transmission System

**46.2.2** Appendix A shall be replaced by the Appendix A attached hereto setting forth for each Purchaser its Generation Cost Share and Generation Entitlement Share and its Northern Transmission Cost Share and Southern Transmission Cost Share; and Appendix B shall be replaced by the Appendix B attached hereto setting forth for each Purchaser its Generation Entitlement Share to be delivered and its Delivery Point and Delivery Voltage KV-AC.

**46.2.3** Appendix D and Appendix E shall each be deleted.

**46.2.4** Each of the following Sections shall be revised or amended as follows:

- (i) In Section 4.3, Section 4.20 A and paragraph C.2.1 of Appendix C, “UP&L” where it appears shall be replaced by “PacifiCorp”.
- (ii) Section 4.33 shall be amended to read in its entirety as follows:

Southern Transmission Cost Share: For any Power Supply Year and as to any particular Purchaser, the share (expressed as to percentage) set forth in Appendix A attributable to such Purchaser with respect to costs associated with the Southern Transmission System. Each Purchaser’s Southern Transmission Cost Share is determined by dividing that portion of such Purchaser’s Generation Entitlement Share specified in Appendix B to be delivered at points of delivery on the Southern Transmission System by the aggregate of those portions of all Purchasers’ Generation Entitlement Shares specified in Appendix B to be delivered at Points of Delivery on the Southern Transmission System; provided that for the purposes of determining the Southern Transmission Cost Share the Generation Entitlement Share of Los Angeles shall exclude the

4% increase thereof provided in Section 46.1, as added by the Second Amendatory Power Sales Contract.

- (iii) In Section 4.36C the provision “(other than UP&L)” shall be deleted.
- (iv) In Section 6.1 the provision “(iii) one representative appointed by UP&L,” shall be deleted and clauses (iv) and (v) shall be renumbered to (iii) and (iv), respectively, and the subsequent references to such clauses (iv) or (v) shall be revised to (iii) or (iv), respectively; and the last sentence of Section 6.1 shall be deleted and replaced by the following: “As used herein, the term Voting Rights shall mean at any particular time with respect to a Purchaser, such Purchaser’s Generation Entitlement Share in effect at such time under its Power Sales Contract.”
- (v) Section 10.1 shall be amended to read in its entirety as follows:

Each Purchaser shall at all times be entitled to schedule, without regard to source or origin and in accordance with the practices and procedures approved by the Coordinating Committee pursuant to Section 6.2.7, the use of the operating capabilities of the Southern Transmission System. Such entitlement shall constitute a right to capacity in the Southern Transmission System and shall be determined by dividing (i) the sum of that portion of such Purchaser’s Generation Entitlement Share specified in Appendix B to be delivered at Points of Delivery on the Southern Transmission System, by (ii) the sum of the aggregate of those portions of all Purchasers’ Generation Entitlement Shares specified in Appendix B to be delivered at Points of Delivery on the Southern Transmission System; provided that for the purposes of this Section 10.1 the Generation Entitlement Share of Los Angeles shall exclude the 4% increase thereof provided in Section 46.1, as added by this Second Amendatory Power Sales Contract.

- (vi) Section 10.2 shall be amended to read in its entirety as follows:

Each Purchaser shall at all times be entitled to schedule, without regard to source or origin and in accordance with the practices and procedures approved by the Coordinating Committee pursuant to Section 6.2.7, the use of the operating capabilities of the Northern Transmission System. Such entitlement shall constitute a right to capacity in the Northern Transmission System and shall determine by dividing (i) the sum of that portion of such Purchaser’s Generation Entitlement Share specified in Appendix B to be delivered at Points of Delivery on

the Northern Transmission System, if any, by (ii) the sum of the aggregate of those portions of all Purchasers' Generation Entitlement Shares specified in Appendix B to be delivered at Points of Delivery on the Northern Transmission System of all such Purchasers.

(vii) Section 10.3 shall be amended to read in its entirety as follows:

If it is necessary to curtail scheduled power flows over all or any part of either the Southern Transmission System or the Northern Transmission System, each affected Purchaser shall be allocated a portion of the transmission capabilities remaining in service in the ratio that such Purchaser's Generation Entitlement Share scheduled over such affected transmission system or part thereof bears to the Generation Entitlement Shares scheduled over such affected transmission system or part thereof of all affected Purchasers; provided that for the purposes of this Section 10.3 the Generation Entitlement Share of Los Angeles shall exclude the 4% increase thereof provided in Section 46.1, as added by this Second Amendatory Power Sales Contract.

**22. ADDITION OF SECTION 47:** A new Section 47 is hereby added to the Power Sales

Contract to read in its entirety as follows:

**47. EARLY TERMINATION RIGHTS OF CERTAIN PURCHASERS:**

**47.1** Any Utah Purchaser that does not accept the Renewal Offer provided pursuant to Section 33 shall have the right to terminate its Power Sales Contract upon the commercial operation of the combined cycle power blocks of the Gas Repowering following the completion of construction and testing thereof; provided that the effectiveness of the termination of the Power Sales Contract of such Utah Purchaser shall be subject to the occurrence of and compliance with the following:

**47.1.1** The taking of action by [IPALPA](#) and the Coordinating Committee which authorizes the undertaking of the Gas Repowering to commence ~~subsequent to July 1, 2018 but~~ prior to January 1, 2020;

**47.1.2** The delivery by such Utah Purchaser within thirty (30) days following the action taken by [IPALPA](#) and the Coordinating Committee as set forth in Section 47.1.1 of notice to [IPALPA](#) of the exercise of the right to terminate its Power Sales Contract (copies of such notice to be furnished by [IPALPA](#) to the other Purchasers);

**47.1.3** Any and all governmental regulatory approvals, consents and authorizations required or necessary for the termination of the Power Sales Contract of such Utah Purchaser shall have been

obtained by such Utah Purchaser, as confirmed by a legal opinion reasonably acceptable to [IPALPA](#), of counsel to such Utah Purchaser;

**47.1.4** No Bonds or other obligations of [IPALPA](#), other than the Transition Project Indebtedness issued to finance the Gas Repowering, shall be outstanding upon the effectiveness of the termination of the Power Sales Contract of such Utah Purchaser;

**47.1.5** A determination shall be made by [IPALPA](#), that each of the following shall comply with the terms of the Bond Resolution, or other resolution, under which the Transition Project Indebtedness to finance the Gas Repowering shall have been issued: (i) the termination of such Utah Purchaser's Power Sales Contract, (ii) the allocation as provided in Section 47.2 of such Utah Purchaser's Generation Entitlement Share and Generation Cost Share, respectively, among one or more of the Utah Purchasers whose Power Sales Contracts are not to be terminated pursuant to this Section 47 and the California Purchasers (each of such Purchasers, a "Remaining Purchaser" and, collectively, the "Remaining Purchasers"), including the corresponding increases as provided by Section 47.2 of the Generation Entitlement Shares and Generation Cost Shares of one or more of the Remaining Purchasers; and (iii) the reallocation pursuant to Section 10 of the Power Sales Contracts (as a result of the allocation pursuant to Section 47.2 referred to in (ii) above) of the Northern Transmission System entitlements and cost shares and, if applicable, of the Southern Transmission System entitlements and cost shares among the Remaining Purchasers;

**47.1.6** The increase of the Generation Entitlement Share and the Generation Cost Share, respectively, of the Remaining Purchasers to the extent provided by Section 47.2 shall be in compliance with all applicable laws and governmental regulations, and shall not have a material adverse effect on the revenues or operations of any Remaining Purchaser, all as shall be confirmed by a legal opinion reasonably acceptable to [IPALPA](#), of counsel to each Remaining Purchaser; and

**47.1.7** The reallocation, if any, of the Southern Transmission System entitlement and cost shares pursuant to Section 10 of the Power Sales Contracts among those Remaining Purchasers that are California Purchasers and any effect that any such reallocation may have on the transmission service entitlement and cost shares of such California Purchasers under the applicable contractual arrangements of Southern California Public Power Authority ("SCPPA") relating to the Southern Transmission System with [IPALPA](#), each of such California Purchasers, and the trustee

under the indenture securing the bonds issued by SCPPA to finance its payments-in-and-of construction for the Southern Transmission System, shall, in each case, be determined by SCPPA to be permitted by and in compliance with such contractual arrangements.

**47.2** Upon the termination of the Power Sales Contract of any Utah Purchaser becoming fully effective in accordance with Section 47.1 (such Utah Purchaser whose Power Sales Contract is so terminated being a “Terminating Utah Purchaser”), the Generation Entitlement Share and Generation Cost Share, respectively, of such Terminating Utah Purchaser (such Generation Entitlement Share and Generation Cost Share being, collectively, a “Terminating Utah Purchaser’s Share”) shall be reduced and allocated among one or more of the Remaining Purchasers as follows:

**47.2.1** ~~IPALPA~~, shall allocate to each of the Remaining Purchasers who is a Utah Purchaser who elects in writing by notice to ~~IPALPA~~ (copies of such notice to be furnished by ~~IPALPA~~ to the other Purchasers), within thirty (30) days of such electing Utah Purchaser’s receipt of the notice described in Section 47.1.2 (the “Election Period”), to receive the allocation of all or a portion of the Terminating Utah Purchaser’s Share (each such Remaining Purchaser who so elects being, individually, an “Electing Utah Purchaser” and, collectively, the “Electing Utah Purchasers”) as reflected in an agreement among the Electing Utah Purchasers delivered to ~~IPALPA~~, within ten (10) days of the expiration of the Election Period.

**47.2.2** If no agreement described in Section 47.2.1 is delivered as provided in Section 47.2.1, then ~~IPALPA~~ shall allocate to each of the Electing Utah Purchasers, that portion of the Terminating Utah Purchaser’s Share, calculated by multiplying the Terminating Utah Purchaser’s Generation Entitlement Share and Generation Cost Share, respectively, by a fraction the numerator of which shall be such Electing Utah Purchaser’s respective Generation Entitlement Share and Generation Cost Share, and the denominator of which shall be the sum of the respective Generation Entitlement Shares and Generation Cost Shares of all Electing Utah Purchasers.

**47.2.3** If, after giving effect to Sections 47.2.1 and 47.2.2, the Electing Utah Purchasers have elected to receive the allocation of less than one hundred percent (100%) of the Terminating Utah Purchaser’s Share, then ~~IPALPA~~ shall allocate the portion of the Terminating Utah Purchaser’s Share not allocated pursuant to Sections 47.2.1 and 47.2.2, among the Remaining Purchasers so as to increase the Generation Entitlement Share and Generation Cost Share, respectively, of each Remaining Purchaser by that portion of such Utah Purchaser’s terminated Generation Entitlement Share and

Generation Cost Share, respectively, calculated by multiplying such terminated Generation Entitlement Share and Generation Cost Share, respectively, by a fraction the numerator of which shall be such Remaining Purchaser's respective Generation Entitlement Share and Generation Cost Share, and the denominator of which shall be the sum of the respective Generation Entitlement Shares and Generation Cost Shares of all Remaining Purchasers.

**47.3** Upon the effectiveness of the termination of any of the Power Sales Contracts of one or more Utah Purchasers as provided in Section 47.1, Appendices A and B to the Power Sales Contracts shall be revised by ~~IPA~~I.P.A., so as to set forth the respective Generation Entitlement Shares and Generation Cost Shares, together with the Points of Delivery, of the Remaining Purchasers under their Power Sales Contracts, as determined in accordance with this Section 47. Copies of such revised Appendices A and B shall be furnished by ~~IPA~~I.P.A. to each Remaining Purchaser to replace the prior Appendices A and B to its Power Sales Contract.

**23. AMENDMENT OF APPENDIX C:** The introductory paragraph of the Description of the Project in Appendix C is hereby amended to read as follows:

The following description is broad in scope and will be revised by I.P.A. and approved by the Coordinating Committee from time to time as is necessary to reflect the actual Project description as the Project evolves and changes throughout any feasibility and planning process as well as any design, construction and operation phase relating to a Capital Improvement, provided, however, that I.P.A. cannot by resolution change the aggregate Maximum Generating Capability of the Generation Station, unless such change shall have received the prior approval of the Coordinating Committee.

**24. EFFECTIVENESS OF POWER SALES CONTRACT:** Except as amended by this

Second Amendatory Power Sales Contract, the Power Sales Contract shall remain in full force and effect.

**25. GOVERNING LAW:** This Second Amendatory Power Sales Contract shall be interpreted, governed by and construed under the laws of the State of Utah.

**26. EFFECTIVE DATE:** This Second Amendatory Power Sales Contract shall be effective on the first date (the "Second Amendatory Power Sales Contract Effective Date") on which all of the following shall have occurred:

**26.1** This Second Amendatory Power Sales Contract shall have been executed and delivered by I.P.A. and the Purchaser;

- 26.2** The Purchaser shall have received those final approvals, consents or authorizations of governmental or public agencies, authorities or persons to execute, deliver and perform this Second Amendatory Power Sales Contract as shall be specified as being required by legal counsel as set forth in the opinion referred to in ~~clause (iii)~~ [Section 26.3](#) below;
- 26.3** An opinion of counsel to the Purchaser satisfactory to I.P.A. shall have been delivered to I.P.A.;
- 26.4** I.P.A. and all the other Purchasers shall have executed and delivered the Second Amendatory Power Sales Contracts; and
- 26.5** The PacifiCorp Final Amendatory Contract shall have become effective in accordance with its terms, provided however that, since the effectiveness of the PacifiCorp Final Amendatory Contract is conditioned on the occurrence, among other events, of the effectiveness of the Second Amendatory Power Sales Contracts, the Second Amendatory Power Sales Contract Effective Date shall be deemed to occur if all the events set forth in this Section ~~25,26~~, other than the effectiveness of the PacifiCorp Final Amendatory Contract, shall have occurred and all of the events and conditions for the effectiveness of the PacifiCorp Final Amendatory Contract, other than such effectiveness of the Second Amendatory Power Sales Contracts, shall have occurred and taken place.

[Remainder of page intentionally left blank]

[IPA LETTERHEAD]

\_\_\_\_\_, ~~2013~~201\_\_\_\_\_

Re: Renewal Offer Letter

«Addressee»

~~Ladies and Gentlemen:~~ [Purchaser Name and Address]

Dear [Purchaser Contact]:

The Power Sales Contract, dated ~~September 28, 1978,~~ \_\_\_\_\_, by Intermountain Power Agency (“IPA”) with \_\_\_\_\_ (the “Purchaser”), as heretofore amended, including the amendments by the Second Amendatory Power Sales Contract, and the other Power Sales Contracts by IPA, as so amended, with other utilities (collectively including Purchaser’s Power Sales Contract, the “Original Power Sales Contracts”) provide for participation by Purchaser and such other utilities (collectively including Purchaser, the “Original Purchasers”) in the Intermountain Power Project (the “Project”). Under Section 33 of the Original Power Sales Contracts IPA agrees to offer (the “Renewal Offer”) to Purchaser and such other Original Purchasers renewal of their participation in the rights and benefits of the Project from and after the expiration on June 15, 2027 (or such later date of termination of the Original Power Sales Contracts that occurs pursuant to Section 26.1 thereof).

This Offer Letter and the terms of the completed form of Offer Acceptance (the “Offer Acceptance”) and the terms of the form of the Renewal Power Sales Contract (the “Renewal Power Sales Contract”), including the form of Agreement for Sale of Renewal Excess Power (the “Excess Renewal Power Sales Agreement”) included as Appendix D to the Renewal Power Sales Contract, which accompany this Offer Letter constitute the initial offer (the “First Round Offer”) by IPA under its Renewal Offer. Such renewal of participation in the Project will be under and pursuant to the Renewal Power Sales Contracts to be entered into by IPA with the Original Purchasers that provide Offer Acceptances of the First Round Offer.

Initially capitalized terms used in this Offer Letter and in the Offer Acceptance which are defined in Section 4 of the Renewal Power Sales Contract shall have the same meanings, respectively, in this Offer Letter and the Offer Acceptance as given such terms in Section 4 of the Renewal Power Sales Contract.

**First Round Offer:** IPA hereby offers to Purchaser participation, commencing on June 16, 2027 (or such later date following termination of the Original Power Sales Contract that occurs pursuant to Section 26.1 thereof), in the rights and benefits of the Project in proportion to Purchaser’s Original Purchaser Entitlements. Purchaser may accept this First Round Offer, in whole or in part, by completing and executing the Offer Acceptance accompanying this Offer Letter. Purchaser should set forth in the space provided in the Offer Acceptance (i) the Generation Entitlement Share that is accepted by Purchaser which may be equal to (but not exceed) its Generation Entitlement Share under its Original Power Sales Contract or may be a specified portion of such Generation Entitlement Share, (ii) the Generation Cost Share accepted by Purchaser which shall be the same percentage as the Generation Entitlement Share set forth

pursuant to (i) above, and (iii) Purchaser's Point of Delivery (consistent with Section 9.9 of the Renewal Power Sales Contract). Purchaser's Transmission Cost Share will be calculated as provided under the Renewal Power Sales Contract by dividing the Generation Entitlement Share as set forth by Purchaser pursuant to (i) above that is to be delivered at the Point of Delivery set forth pursuant to (iii) above, by the aggregate of all Generation Entitlement Shares specified in the Offer Acceptances of Purchaser and the other Original Purchasers to be delivered at such Point of Delivery. The completed Offer Acceptance of Purchaser shall be duly authorized and executed by Purchaser, shall have received any and all Regulatory Contract Approvals and shall be submitted to IPA by \_\_\_\_\_, ~~2013~~201\_\_\_\_ or any extension thereof by IPA (the "First Round Offer Acceptance Date"), all in accordance with Section 26 of the Renewal Power Sales Contract.

Any portion of Purchaser's Original Purchaser Entitlements not accepted by Purchaser by its Offer Acceptance of the First Round Offer shall become part of the Orphan Original Purchaser Entitlements under the Renewal Power Sales Contracts. If Purchaser does not timely respond to this First Round Offer, or if Purchaser responds by rejecting in writing its entire Original Purchaser Entitlement, all Purchaser's Original Purchaser Entitlements shall become part of the Orphan Original Purchaser Entitlements, and Purchaser will be deemed to have rejected the Renewal Offer and shall have no further right to participate in the Renewal Offer.

As set forth in the Offer Acceptance, the Renewal Offer process will conclude with no further offers being made in the event Offer Acceptances of the First Round Offer result in the Renewal Power Sales Contracts by IPA with Purchaser and the other Original Purchasers becoming fully effective for one hundred percent (100%) of the Generation Entitlement Shares, Generation Cost Shares and the applicable Transmission Cost Shares of the Project, all as provided in the Offer Acceptance and in Section 26.2.2 of the Renewal Power Sales Contract. In the event, however, that the First Round Offer does not result in such Offer Acceptances, the Renewal Offer will continue with the Second Round Offer under which IPA will provide (i) ~~an offer of any Utah Orphan Original~~that (a) the Utah Committed Purchasers shall have the right to provide to IPA a Utah Orphan Entitlement Allocation Document within 45 days following the date on which IPA provides its Offer Letter for the Second Round Offer, and (b) if the Utah Committed Original Purchasers fail to provide to IPA such a Utah Orphan Entitlement Allocation Document, such remaining Utah Orphan Purchaser Entitlements ~~to those~~shall then be offered to each of the Utah Committed Original Purchasers ~~submitting Offer Acceptances for the First Round Offer~~ as provided under Section ~~26.3.1~~26.3.1.1 of the Renewal Power Sales Contracts, and (ii) ~~an offer of any~~that (a) the California Committed Purchasers shall have the right to provide to IPA a California Orphan Entitlement Allocation Document within 45 days following the date on which IPA provides its Offer Letter for the Second Round Offer, and (b) if the California Committed Original Purchasers fail to provide to IPA such a California Orphan Entitlement Allocation Document, such remaining California Orphan Original Purchaser Entitlements to those shall then be offered to each of the California Committed Original Purchasers ~~submitting Offer Acceptances for the First Round Offer~~ as provided under Section ~~26.3.1~~26.3.1.2 of the Renewal Power Sales Contracts. In the event, however, that the Second Round Offer does not result in Offer Acceptances for at least eighty-five percent (85%) of the aggregate Original Purchaser Entitlements, the Renewal Offer will continue with the Final Offer in accordance with Section 26.4 of the Renewal Power Sales Contracts.

**OFFER ACCEPTANCE**

\_\_\_\_\_, ~~2013~~201

To: Intermountain Power Agency (“IPA”)

\_\_\_\_\_ (“Purchaser”) hereby accepts the First Round Offer in accordance with the terms of IPA’s Offer Letter, dated ~~2013~~201, including this Offer Acceptance and the accompanying form of Renewal Power Sales Contract (the “Renewal Power Sales Contract”), and hereby specifies for its Offer Acceptance of the First Round Offer the following:

Purchaser’s Accepted Generation Entitlement Share: \_\_\_\_%

Purchaser’s Accepted Generation Cost Share: \_\_\_\_%<sup>1</sup>

Purchaser’s Accepted Point of Delivery: \_\_\_\_\_<sup>2</sup>

Purchaser understands and agrees that its transmission entitlement in the Project and its Transmission Cost Share will be determined as provided in the Renewal Power Sales Contract.

Initially capitalized terms used in this Offer Acceptance which are defined in Section 4 of the Renewal Power Sales Contract shall have the same meanings, respectively, in this Offer Acceptance as given such terms in Section 4 of the Renewal Power Sales Contract.

By this Offer Acceptance, Purchaser agrees that based upon such Offer Acceptance and as provided by the applicable terms of the Renewal Power Sales Contract, IPA will prepare and will execute and deliver to Purchaser the Renewal Power Sales Contract to be entered into with Purchaser, including Appendices A and B thereto, all as provided in Section 26.2 of the Renewal Power Sales Contract, and Purchaser agrees to execute and deliver to IPA such Renewal Power Sales Contract which shall become effective as of the First Round Offer Acceptance Date.

If, there shall have been Offer Acceptances by the Original Purchasers of the First Round Offer so that IPA shall enter into Renewal Power Sales Contracts with Purchaser and all the other Original Purchasers for one hundred percent (100%) of the Generation Entitlement Shares, Generation Cost Shares and the applicable Transmission Cost Shares of the Project, all as provided in Section 26.2.2 of the Renewal Power Sales Contract, Purchaser agrees in accordance with Section 26.2.2 that its Renewal Power Sales Contract, together with such Renewal Power Sales Contracts by IPA with the other Original Purchasers, shall be fully effective in accordance with the terms thereof.

<sup>1</sup> Purchaser’s Generation Cost Share must be the same as its Generation Entitlement Share as required by the Renewal Power Sales Contract.

<sup>2</sup> [Purchaser’s Point of Delivery must be designated in accordance with Section 9.9 of the Renewal Power Sales Contract.](#)

**RENEWAL POWER SALES CONTRACT**

**BETWEEN**

**INTERMOUNTAIN POWER AGENCY**

**AND**

**[NAME OF PURCHASER]**

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## RENEWAL POWER SALES CONTRACT

1. **PARTIES:** This Renewal Power Sales Contract (this “Contract”), is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, ~~2013~~201, by and between INTERMOUNTAIN POWER AGENCY, a political subdivision of the State of Utah (“IPA”), created under the provisions of the Act, and [NAME OF PURCHASER] (“Purchaser”).

2. **RECITALS:** This Contract is made with reference to the following facts, among others:

2.1 IPA is the owner of the Project.

2.2 Pursuant to the Original Power Sales Contracts, IPA has sold to the Original Purchasers, and the Original Purchasers have purchased from IPA, all of the generation and transmission capacity of the Project.

2.3 The Original Power Sales Contracts were last amended by the Second Amendatory Power Sales Contracts which provide for the construction and installation of natural gas-fired combined cycle power blocks and related equipment and facilities as a Capital Improvement of the Project which upon completion, will replace the existing coal-fired generating units of the Project.

2.4 The term of each of the Original Power Sales Contracts is to end on June 15, 2027.

2.5 Section 33 of each of the Original Power Sales Contracts, as amended by the Second Amendatory Power Sales Contract, provides for IPA to make the Renewal Offer to the Original Purchasers which is to include offers to renew, and under certain circumstances may include offers to increase, the entitlements of Original Purchasers to the generation and, as applicable, transmission capacity of the Project for a term subsequent to June 15, 2027, all upon the terms set forth or described in such Section 33.

2.6 By its terms each of the Second Amendatory Power Sales Contracts is subject to termination if the Renewal Offer is not accepted by the Original Purchasers by entering into the Renewal Power Sales Contracts with IPA for one hundred percent (100%) of the Generation Entitlement Shares, Generation Cost Shares and applicable Transmission Cost Shares of the Project, all in accordance with the terms of the Renewal Offer including the provisions of Section 26 of the Renewal Power Sales Contracts.

2.7 IPA has made the initial Renewal Offer to the Original Purchasers, including the Purchaser, and by execution and delivery of this Contract, Purchaser has accepted on the terms set forth in this Contract the Renewal Offer made to Purchaser by IPA with respect to the Generation Entitlement Share and Point of Delivery set forth in Appendix B hereto and the Generation Cost Share and the Transmission Cost Share, as applicable, set forth in Appendix A hereto, as the same may be increased as provided in Section 26 of this Contract.

Agreement pursuant to Section 26; provided that in any event the California Excess Power Purchasers shall include Los Angeles.

4.15A **California Orphan Entitlement Allocation Agreement:** ~~—An agreement by and among~~ Document: A written document signed by all the California Committed Original Purchasers, as set forth under Section 26.3.1.2, providing for the allocation to and acceptance by those California Committed Original Purchasers designated in such ~~agreement~~ document of the then remaining California Orphan Original Purchaser Entitlements; provided that ~~such agreement shall require that~~ together with such document such designated California Committed Original Purchasers shall provide ~~IPA with~~ Offer Acceptances with respect to ~~their respective~~ the California Orphan Original Purchaser Entitlements allocated to such designated California ~~Orphan Committed~~ Original ~~Purchaser—Entitlements~~ Purchasers, respectively, in such document and such ~~agreement~~ document shall be filed with IPA.

4.15B **California Orphan Original Purchaser Entitlements:** As of any particular point in time on and after the First Round Offer Acceptance Date and with respect to the Original Purchaser Entitlements that have been offered under the First Round Offer to the Original California Purchasers, California Orphan Original Purchaser Entitlements shall mean and include: (i) the amount of such Original Purchaser Entitlements (or the portions thereof) that have been declined, rejected or otherwise relinquished in writing to the reasonable satisfaction of IPA by one or more Original California Purchasers, (ii) in the case of an acceptance of the First Round Offer by any of the Original California Purchasers in part, that part of such Original California Purchasers' Original Purchaser Entitlements that is not accepted and not included under such Original California Purchasers' Renewal Power Sales Contracts (which part shall be deemed declined, rejected or otherwise relinquished by such Original California Purchasers), and (iii) in the case where one or more of the Original California Purchasers fail to enter into any Offer Acceptance (in whole or in part) or fail to decline, reject or otherwise relinquish in writing the First Round Offer (in whole or in part), all of such Original California Purchasers' Original Purchaser Entitlements.

4.16 **Capital Improvement Acquisition and Construction Costs:** With respect to any particular Capital Improvement, all costs of planning, designing, acquiring, constructing and installing such Capital Improvement, including, without limitation, costs of labor, materials, equipment, supplies, interests in real or personal property, taxes, reasonable operating, repair or replacement reserves relating to such Capital Improvement, and any Issuance and Financing Costs associated with any Project Indebtedness issued or to be issued to pay any such costs.

4.17 **Capital Improvements:** All renewals or replacements of or repairs, additions, improvements, modifications or betterments to the Project or any interest in the Project, including, without limitation, the acquisition of natural gas production wells or interests therein and related facilities and properties and gas transmission or transportation facilities for the Project, and the prepayment for the purchase of natural gas supplies for the Project, that are (a) consistent with Prudent Utility Practice and determined to be necessary or desirable by the Original Coordinating Committee, or, if such Capital Improvement is made after the Transition Date, by the Renewal Contract Coordinating Committee, in order to keep the Project or any interest in the Project in good operating condition, to prevent a loss of revenue therefrom, or to

increase the capacity, reliability or usefulness of the Project or any interest therein, (b) required by any governmental agency having jurisdiction over the Project, (c) required by the Construction Management and Operating Agreement, or (d) required by any Bond Resolution; provided, however, that Capital Improvements shall not include any generating unit added to the Project in addition to those included in the Project which continue to generate electric capacity and energy of the Project. Capital Improvements shall consist of Ordinary Capital Improvements and Major Capital Improvements. Each Capital Improvement constitutes a part of the Project Component to which it relates.

4.18 **Committed Original Purchaser:** An Original Purchaser that has (i) accepted its Renewal Offer by entering into an Offer Acceptance as to all of its Original Purchaser Entitlement or (ii) accepted its Renewal Offer by entering into an Offer Acceptance as to part of its Original Purchaser Entitlement and declined, rejected or otherwise relinquished in writing and to the reasonable satisfaction of IPA the Renewal Offer as to the remainder of its Original Purchaser Entitlement, or deemed to have so declined, rejected or otherwise relinquished the same as provided in this Contract.

4.19 **Construction Aid Agreement:** Shall have the meaning set forth in Section 38.2.

4.20 **Construction Management and Operating Agreement:** The Intermountain Power Project Amended and Restated Construction Management and Operating Agreement, dated as of \_\_\_\_\_, ~~2013,201~~ by and between Los Angeles and IPA relating to the construction and operation of the Project during the term of the Original Power Sales Contracts and the term of the Renewal Power Sales Contracts and any replacements or renewals thereof, as such Agreement, or such replacements or renewals thereof, may from time to time be amended and supplemented.

4.21 **Contract:** Shall have the meaning set forth in Section 1 and is one of the Renewal Power Sales Contracts.

4.22 **Cooperative Purchasers:** The Purchasers that are incorporated and organized as cooperative corporations and provide electric energy to retail customers in any of the States of Utah, Nevada or Wyoming. The Cooperative Purchasers shall not include any of the California Purchasers or the Utah Municipal Purchasers.

4.23 **Cost Shares:** With respect to a Purchaser, shall mean its Generation Cost Share and its Northern Transmission Cost Share or Southern Transmission Cost Share, as applicable.

4.24 **Debt Instruments:** All bonds, notes and other instruments evidencing IPA's obligation to pay or repay Project Indebtedness.

4.25 **Debt Service:** For any period shall mean, as of any date of calculation and with respect to any particular series, issue or tranche of any specified Project Indebtedness an amount equal to the sum of (i) interest accruing during such period on such series, issue or tranche of Project Indebtedness, except to the extent that such interest is to be paid through

capitalized interest funded with the proceeds thereof and (ii) that portion of each principal installment (including any unsatisfied balance of a sinking fund installment) with respect to such series, issue or tranche of Project Indebtedness which would accrue during such period if such principal installment were deemed to accrue daily in equal amounts from the next preceding principal installment due date, for such series, issue or tranche of Project Indebtedness (or, if there shall be no such preceding principal installment due date, from a date one year preceding the due date of such principal installment or from the date of issuance or incurrence of such Project Indebtedness, whichever date is later). Such interest and principal installments for such Project Indebtedness shall be calculated on the assumption that no such Project Indebtedness outstanding at the date of calculation will cease to be outstanding except by reason of the payment of each principal installment on the due date thereof.

4.26 ~~**Declined Original Purchaser:** An Original Purchaser that has declined, rejected or otherwise relinquished in writing and to the reasonable satisfaction of IPA its Renewal Offer as to all of its Original Purchaser Entitlement or that failed to provide any Offer Acceptance (in whole or in part) of the Renewal Offer or failed to decline, reject or otherwise relinquish in writing (in whole or in part) the Renewal Offer.~~ **Reserved**

4.27 **Default Interest Rate:** A variable per annum interest rate equal to 300 basis points above the current General Interest Rate, which interest rate shall be adjusted as of the close of business on the first Business Day of each Month.

4.28 **Designated Project Indebtedness:** Project Indebtedness (other than Project Indebtedness any portion of which bears a variable rate of interest) that is issued or incurred (a) to finance a Capital Improvement where (i) the date of the last maturity of such Project Indebtedness is on or about the end of the estimated useful life of such Capital Improvement as determined by IPA and the Renewal Contract Coordinating Committee, in each case based upon advice provided by a Qualified Independent Engineer with expertise in the relevant subject matter, and (ii) either (x) such Project Indebtedness has Substantially Equal Debt Service for each Fiscal Year such Project Indebtedness is scheduled to be outstanding or (y) there is Substantially Equal Aggregate Debt Service with respect to all Designated Project Indebtedness, including such Project Indebtedness being issued or incurred, for each Fiscal Year such Designated Project Indebtedness is scheduled to be outstanding (using in each case where such Project Indebtedness being issued or incurred is to be sold by competitive bidding, an average interest rate therefor as estimated by IPA), provided that, there shall not be taken into account in the case of either (ii) (x) or (ii) (y) above any Fiscal Year in which all or any portion of the interest on such Project Indebtedness or Designated Project Indebtedness is to be paid through capitalized interest funded with the proceeds thereof or any Fiscal Year during which such Project Indebtedness or Designated Project Indebtedness is scheduled to be outstanding for only a part of such Fiscal Year; or (b) to refund or refinance any outstanding Designated Project Indebtedness where (i) upon the issuance of such Project Indebtedness the Designated Project Indebtedness being refunded or refinanced is defeased and no longer outstanding under the terms of the Bond Resolution under which such Designated Project Indebtedness was issued or incurred and (ii) the Aggregate Debt Service for the then current and each future Fiscal Year with respect to all Designated Project Indebtedness (including such Project Indebtedness being issued or incurred) outstanding immediately after the issuance or incurrence of such Project Indebtedness being issued or incurred, is not greater than the Aggregate Debt Service for each

Sales Contracts and completed and entered into pursuant to Section 26.6 of the Renewal Power Sales Contracts.

4.39 **FAS 143:** The Statement of Financial Accounting Standards No. 143 issued by the FASB, as further affected or interpreted by additional FASB statements or FASB interpretations.

4.40 **FASB:** The Financial Accounting Standards Board or any successor organization thereto.

4.41 **Final Offer:** IPA's continued Renewal Offer, if necessary as provided in Section 26.4.1, with respect to the then remaining Orphan Original Purchaser Entitlements to each of the Committed Original Purchasers in the order of their respective Subscription Generation Entitlement Shares, beginning with the Committed Original Purchaser with the highest Subscription Generation Entitlement Share, as then set forth in Appendix B of the Renewal Power Sales Contracts, and continuing with the Committed Original Purchasers in descending order of values of their Subscription Generation Entitlement Shares under Appendix B; provided that such Final Offer shall ~~be completed~~ cease to be offered any further upon the first to occur of the receipt of an Offer Acceptance by a Committed Original Purchaser that complies with Section 26.4.2 or such an Offer Acceptance that complies with Section 26.4.3.

4.42 **Final Offer Acceptance Date:** Such date as specified in the Offer Letter by IPA with respect to the Final Offer, as such date may be thereafter extended by IPA.

4.43 **Final Retirement Date:** With respect to any particular Project Component, the date upon which all conditions set forth in Section 23.9 have been satisfied as to such Project Component.

4.44 **First Round Offer:** The initial offer under IPA's Renewal Offer offering to each Original Purchaser the renewal, in whole or in part, of its Original Purchaser Entitlements as provided in Section 26.2.

4.45 **First Round Offer Acceptance Date:** \_\_\_\_\_, ~~2013, 201~~ 201, as such date may be extended by IPA.

4.46 **Fiscal Year:** Any period commencing on July 1 of any calendar year and ending on June 30 of the next succeeding calendar year.

4.47 **Fuel Management Practices and Procedures:** The fuel management practices and procedures approved by the Renewal Contract Coordinating Committee as provided in Section 6.2.10.

4.48 **Gas Repowering:** The construction and installation of Gas Unit 1 and Gas Unit 2 as provided in Section 44.1 of the Original Power Sales Contract, together with the decommissioning and retirement of existing generating units and related facilities and properties as provided in Section 44.2 of the Original Power Sales Contracts.

4.49 **Gas Unit:** Includes:

4.49.1 **Gas Unit 1:** The natural gas-fired combined cycle power block and related facilities and properties constituting a part of the Generation Station and referred to as Intermountain Power Project Unit 1, as shall be set forth in the Description of Project attached hereto as Appendix C, together with any Auxiliary Facilities of such generating unit as set forth in Section 23.8.

4.49.2 **Gas Unit 2:** The natural gas-fired combined cycle power block and related facilities and properties constituting a part of the Generation Station and referred to as Intermountain Power Project Unit 2, as shall be set forth in the Description of Project attached hereto an Appendix C, together with any Auxiliary Facilities of such generating unit as set forth in Section 23.8

4.50 **General Interest Rate:** A variable per annum interest rate equal to 100 basis points less than the Prime Rate; provided, however, that if the Prime Rate cannot be identified for an applicable Business Day in a publication reasonably available to IPA, then the General Interest Rate shall be equal to 100 points above the yield on thirty-day (30-day) notes issued by a corporation specified by IPA, which corporation must (x) be incorporated and headquartered in the United States and (y) have outstanding senior, unsecured debt rated by Standard & Poor's in its highest credit rating category. If Standard & Poor's is no longer issuing credit ratings or, in IPA's reasonable determination, has ceased to be a reliable source of credit information, then IPA shall specify a comparable corporation with outstanding senior, unsecured debt rated in a similar credit rating category by a nationally recognized credit rating agency other than Standard & Poor's.

4.51 **General Service Requirements:** The capacity and energy required for operation of all generating facilities and other equipment and systems used or required at the Generation Station in connection with the operation and maintenance of the Generation Station.

4.52 **Generation Cost Share:** The share (expressed as a percentage) of each Purchaser as set forth in Appendix A attached hereto, as such share may be adjusted from time to time pursuant to Section 26 or other applicable provisions of this Contract, with respect to the costs associated with the Generation Station. A Purchaser's Generation Cost Share shall at all times be the same as its Generation Entitlement Share.

4.53 **Generation Entitlement Share:** The percentage entitlement of each Purchaser in each generating unit of the Project, as set forth in Appendix B attached hereto, as adjusted from time to time pursuant to Section 26 or other applicable provisions of this Contract.

4.54 **Generation Station:** The Generation Station as set forth in the Description of the Project attached hereto as Appendix C together with all applicable Auxiliary Facilities.

4.55 ~~**Intermountain Purchasers:** The Utah Municipal Purchasers and the Cooperative Purchasers.~~ **Reserved**

4.56 **Investment Securities:** Means and includes any of the following securities with maturities consistent with the needs by IPA for such funds: (a) any bonds or other

realizes from the sale or other disposition of the property or property rights constituting a part of such Project Component on or after the Permanent Removal From Service Date of such Project Component; provided, however, that (a) with respect to any IPA Retained Facility other than Project Water Rights, the Retirement Salvage Proceeds of such IPA Retained Facility shall be deemed to be the estimated Retirement Salvage Proceeds thereof determined by the Retirement Consultant pursuant to Section 23.4, and shall not include any proceeds or revenues IPA may realize from any subsequent sale or other disposition by IPA of such IPA Retained Facility or any portion thereof; and (b) with respect to Project Water Rights that become an IPA Retained Facility pursuant to Section 24.1, the Retirement Salvage Proceeds of such Project Water Rights shall be deemed to be the amount determined pursuant to Section 24.2.

4.120 **Second Amendatory Power Sales Contract:** The Second Amendatory Power Sales Contract, dated as of \_\_\_\_\_, ~~2013~~, 201, entered into by IPA with each Original Purchaser, together with any amendments thereof and supplements thereto.

4.121 **Second Round Offer Acceptance Date:** Such date specified in the Offer Letter by IPA with respect to the Second Round Offer, as such date may be extended by IPA.

4.122 **Second Round Offer:** IPA's continued Renewal Offer pursuant to Section 26.3 hereof.

4.123 **Section 39 Facilities:** Section 39 Facilities shall mean rights, properties, facilities and appurtenances that pursuant to and as provided in Section 39 of the Renewal Power Sales Contracts are to be or have been sold, leased or otherwise made available by IPA for the construction or operation of any generating unit or units, transmission facilities or other facilities or properties at the Project site that shall not be part of the Project.

4.124 **Section 39 Facilities Agreement:** Section 39 Facilities Agreement shall mean any agreement or arrangement pursuant to which IPA sells, leases or otherwise makes available Section 39 Facilities in accordance with Section 39 of the Renewal Power Sales Contracts for any generating unit or units, transmission facilities or other facilities or properties located at the Project site but not constituting part of the Project.

4.125 **Southern Transmission Cost Share:** As to any particular Purchaser, the share (expressed as a percentage) set forth for such Purchaser in Appendix A attached hereto, as adjusted pursuant to Section 26, with respect to the costs associated with the Southern Transmission System that are to be allocated among the Purchasers with the Point of Delivery on the Southern Transmission System under the Renewal Power Sales Contracts. Each Purchaser's Southern Transmission Cost Share shall be equal to the quotient obtained by dividing that portion of such Purchaser's Generation Entitlement Share that is to be delivered at the Point of Delivery on the Southern Transmission System by the aggregate of those portions of all Purchasers' Generation Entitlement Shares that are to be delivered at the Point of Delivery on the Southern Transmission System.

4.137 **Transition Date:** June 16, 2027; provided, however, that if the date upon which the Original Power Sales Contracts terminate is extended pursuant to Section 26.1 of the Original Power Sales Contracts, then the Transition Date shall be the date that is next succeeding the date upon which the Original Power Sales Contracts terminate in accordance with their terms.

4.138 **Transition Debt Instruments:** Any Debt Instrument issued by IPA prior to the Transition Date by which Transition Project Indebtedness is incurred or evidenced.

4.139 **Transition Project Indebtedness:** Project Indebtedness that is incurred by IPA prior to the Transition Date and that, by its terms, is scheduled to remain outstanding after the Transition Date, provided that no such Project Indebtedness shall be incurred or authorized on or prior to the Entitlement Determination Date.

4.140 **Transmission Cost Share:** With respect to any Purchaser, shall mean, the Northern Transmission Cost Share or the Southern Transmission Cost Share, as applicable.

4.141 ~~**Uncommitted Original Purchaser:** An Original Purchaser to which IPA has made a Renewal Offer and that is not a Committed Original Purchaser or a Declined Original Purchaser.~~ **Reserved**

4.142 **Uncontrollable Forces:** Any cause beyond the control of IPA that by the exercise of due diligence IPA is unable to prevent or overcome, including, but not limited to, failure or refusal of any other person or entity (including any Purchaser) to comply with any of the then existing contracts, an act of God, fire, flood, explosion, strike, sabotage, pestilence, an act of the public enemy, terrorist act, civil or military authority including court orders, injunctions and orders of governmental agencies with proper jurisdiction, insurrection or riot, an act of the elements, failure of equipment, inability of IPA or any person or entity engaged in work on the Project to obtain or ship materials or equipment because of the effect of similar causes on suppliers or carriers, or the inability of IPA to sell or issue its Debt Instruments.

4.143 **Uniform System of Accounts:** The “Uniform Systems of Accounts prescribed for Class A and B Public Utilities and Licensees” as prescribed and, from time to time, as amended or modified or substitution therefor made by the Federal Energy Regulatory Commission or its successor, whether or not IPA is subject to Federal Energy Regulatory Commission jurisdiction.

4.144 **Unsubscribed Original Purchaser Entitlements:** The Original Purchaser Entitlements as to which, prior to the First Round Offer Acceptance Date, there has not been an Offer Acceptance.

4.145 **Utah Committed Original Purchasers:** The Original Utah Purchasers that are Committed Original Purchasers.

4.146 **Utah Municipal Purchasers:** The Purchasers that are political subdivisions of the State of Utah.

4.146A **Utah Orphan Entitlement Allocation Agreement:** ~~An agreement by and among~~ Document: A written document signed by all the Utah Committed Original Purchasers, as set forth under Section 26.3.1.1, providing for the allocation to and acceptance by those Utah Committed Original Purchasers designated in such ~~agreement~~ document of the then remaining Utah Orphan Original Purchaser Entitlements; provided that ~~such agreement shall require that~~ together with such document such designated Utah Committed Original Purchasers ~~shall~~ provide ~~IPA with~~ Offer Acceptances with respect to ~~their respective allocated~~ the Utah Orphan Original Purchaser Entitlements ~~and such agreement~~ allocated to such designated Utah Committed Original Purchasers, respectively, in such document and such document shall be filed with IPA.

4.146B **Utah Orphan Original Purchaser Entitlements:** As of any particular point in time on and after the First Round Offer Acceptance Date and with respect to the Original Purchaser Entitlements that have been offered under the First Round Offer to the Original Utah Purchasers, Utah Orphan Original Purchaser Entitlements shall mean and include: (i) the amount of such Original Purchaser Entitlements (or the portions thereof) that have been declined, rejected or otherwise relinquished in writing to the reasonable satisfaction of IPA by one or more Original Utah Purchasers, (ii) in the case of an acceptance of the First Round Offer by any of the Original Utah Purchasers in part, that part of such Original Utah Purchasers' Original Purchaser Entitlements that is not accepted and not included under such Original Utah Purchasers' Renewal Power Sales Contracts (which part shall be deemed declined, rejected or otherwise relinquished by such Original Utah Purchasers), and (iii) in the case where one or more of the Original Utah Purchasers fail to enter into any Offer Acceptance (in whole or in part) or fail to decline, reject or otherwise relinquish in writing the First Round Offer (in whole or in part), all of such Original Utah Purchasers' Original Purchase Entitlements.

4.146BC **Utah Purchasers:** The Utah Municipal Purchasers and the Cooperative Purchasers.

4.147 **Voting Rights:** Shall have the meaning set forth in Section 6.1.9.

4.148 **Willful Action:**

4.148.1 Action taken or not taken by a party to this Contract at the direction of its directors or other governing body, officers or employees having management or administrative responsibility affecting its performance under this Contract and that:

4.148.1.1 Is knowingly or intentionally taken or not taken with conscious indifference to the consequences thereof or with the intent that injury or damage would result therefrom;

4.148.1.2 Has been determined by a final arbitration award or judgment or judicial decree to be a material default under this Contract, and which action occurs or continues beyond the time specified in such arbitration award or judgment or judicial decree for curing such default, or, if no time to cure is specified therein, occurs or continues thereafter beyond a reasonable time to cure such default; or

6.1.1 One (1) representative shall be appointed by IPA, which representative shall at all times serve as the Chairman of the Renewal Contract Coordinating Committee. Such representative shall have no Voting Rights. IPA may also appoint an alternate representative who shall be entitled to act in place of its regular representative in the event of the absence of the regular representative.

6.1.2 Each California Purchaser shall be entitled to appoint one (1) representative; provided, however, that if more than one California Purchaser has Voting Rights of less than one and four-tenths percent (1.40%), then all such California Purchasers having Voting Rights of less than one and four-tenths percent (1.40%) shall, as a group, be entitled to appoint one (1) representative, which representative shall be elected by a weighted majority vote of all such California Purchasers having Voting Rights of less than one and four-tenths percent (1.40%) based on their respective Voting Rights.

6.1.3 Each Purchaser, other than the California Purchasers, that has Voting Rights of one and four-tenths percent (1.40%) or more shall be entitled to appoint one (1) representative.

6.1.4 One (1) representative shall be collectively appointed by the Utah Municipal Purchasers who are not individually entitled to appoint a representative pursuant to Section 6.1.3, which representative shall be elected by a weighted majority vote, based on their respective Voting Rights, of all such Utah Municipal Purchasers not individually entitled to appoint a representative.

6.1.5 One (1) representative shall be collectively appointed by the Cooperative Purchasers who are not individually entitled to appoint a representative pursuant to Section 6.1.3, which representative shall be elected by a weighted majority vote, based on their respective Voting Rights, of all such Cooperative Purchasers not individually entitled to appoint a representative.

6.1.6 **Reserved**

6.1.7 All Purchasers who are entitled to individually appoint a representative to the Renewal Contract Coordinating Committee pursuant to Sections 6.1.2 or 6.1.3 shall give the Chairman of the Renewal Contract Coordinating Committee written notice of their initial appointments (and any initial alternates thereafter) and of any change in the appointment of their representative, or alternates, which appointments and changes shall be effective immediately upon receipt of such notice by the Chairman. Each group of Purchasers who are entitled to collectively appoint a representative to the Renewal Contract Coordinating Committee pursuant to Sections 6.1.2, 6.1.4 or 6.1.5 shall hold an election within thirty (30) days after the Entitlement Determination Date, and thereafter within the first sixty (60) days of the first calendar year ~~2014~~following the date of this Contract and within the first sixty (60) days of each fifth (5th) calendar year thereafter, to elect its representative (and any alternates) to the Renewal Contract Coordinating Committee. Within thirty (30) days after each such election, the Purchasers within such group shall certify in writing to the Chairman of the Renewal Contract Coordinating Committee the results of such election and the name of the representative (and any alternates) so appointed to the Renewal Contract Coordinating Committee.

6.1.10.2 The Chairman of the Renewal Contract

Coordinating Committee shall be responsible for calling and presiding over the meetings of the Renewal Contract Coordinating Committee. The Chairman shall promptly call a meeting of the Renewal Contract Coordinating Committee at the written request of any representative. All action taken by the Renewal Contract Coordinating Committee shall require an affirmation of representatives of Purchasers having Voting Rights aggregating at least eighty percent (80%), except as otherwise provided in Section 23.1, with respect to the retirement from service of the Northern Transmission System or the Southern Transmission System, or in Section ~~6.2.10~~6.2.10, with respect to approval of the Fuel Management Practices and Procedures, and action may be taken by vote given in an assembled meeting of the representatives or by telephone, telefax, videophone, e-mail, nationally recognized overnight courier service, certified or registered letter or by any combination thereof; provided, however, that if two or more of the City of Burbank, the City of Glendale, the City of Pasadena and the City of Riverside (such cities being, collectively, the “Other California Purchasers”), hold, collectively, Generation Entitlement Shares totaling at least 15%, then, at any time prior to August 3, 2019, the approval of an Alternative Repowering (as defined in the Original Power Sales Contracts) requested of the Renewal Contract Coordinating Committee shall require an affirmation of representatives of Purchasers having Voting Rights aggregating at least eighty percent (80%), including, without limitation, the affirmation of at least one of the representatives of the Other California Purchasers.

6.1.10.3 The Renewal Contract Coordinating Committee

shall be organized within thirty (30) days after the Entitlement Determination Date; provided, however, that except as specifically set forth under Sections 6.3, 6.4 or 15.1, the Renewal Contract Coordinating Committee shall have no responsibilities, duties or rights under the Renewal Power Sales Contracts prior to the Transition Date.

6.2 **Renewal Contract Coordinating Committee Responsibilities:** From and after the Transition Date, the Renewal Contract Coordinating Committee shall have the following responsibilities:

6.2.1 To the extent not finalized or effective on the Transition Date, review, modify and approve specifications, proposals, bid evaluations and contracts, and any other business as determined by the Renewal Contract Coordinating Committee.

6.2.2 Provide liaison among IPA and the Purchasers at the management level with respect to the operation of the Project and any construction thereof then or thereafter ongoing.

6.2.3 Exercise general supervision over the committees or sub-committees established pursuant to Section 6.6.

6.2.11 Review, modify and approve all budgets and revisions thereof prepared and submitted by the Project Manager or Operating Agent pursuant to the Construction Management and Operating Agreement.

6.2.12 Review, modify and approve the practices and procedures formulated by the Project Manager or Operating Agent under the Construction Management and Operating Agreement and review and approve all Project interconnection agreements or arrangements and all amendments and supplements to the Construction Management and Operating Agreement.

6.2.13 Review, modify and approve other recommendations of the Project Manager or Operating Agent made pursuant to the provisions of the Construction Management and Operating Agreement.

6.2.14 Review, modify and approve all administrative and general costs to be included in the Annual Budget related to the conduct of the business of IPA with respect to the Project, and all payments and contributions by IPA to the counties, municipalities and school districts affected by the Project other than such payments and contributions as are mandated, and the amount of which is specified (whether by formula, assessment criteria or otherwise) by Utah law.

6.2.15 Review, modify and approve all Capital Improvements ([other than Essential Capital Improvements](#)) and the budgets or other provisions for the payment or financing thereof.

6.2.16 Approve all consultants or advisors with respect to Project matters that may be retained by IPA, including, but not limited to, financial advisors and bond counsel (but excluding any Qualified Independent Engineer retained by IPA as provided in Section 6.2.22 and the general legal counsel of IPA); provided, however, that the failure of the Renewal Contract Coordinating Committee to act within forty five (45) days after written notice by IPA of an intent to retain any such consultant or advisor shall constitute a waiver of the right of approval.

6.2.17 Review, modify and approve, consistent with the terms of Section 33, IPA's insurance program, including, without limitation, a self-insurance program.

6.2.18 Formulate practices and procedures for the use of the unutilized operating capabilities of the transmission facilities of the Project among the Purchasers entitled to schedule, without regard to source or origin, the use of such operating capabilities.

6.2.19 Make recommendations with respect to and review and approve the revisions by IPA of the Description of the Project attached hereto as Appendix C, (i) as such Description of the Project shall be revised by IPA at the commencement of the Operational Period to conform such Description of the Project to the Project as it shall then exist, and (ii) as such Description of the Project shall be thereafter modified by IPA to conform such Description of the Project to the actual Project as it evolves and changes during the Operational Period; provided that all such revisions of the Description of the Project shall be in accordance with Prudent Utility Practice, and IPA shall cause Appendix C attached hereto to be revised, with such

fails to make any such recommendations, action by IPA with respect to such matters shall not be precluded.

6.2.24 Perform such other functions and duties as may be provided for under this Contract or as may be necessary or appropriate to carry out its duties and powers as provided for under this Contract.

6.3 **Required Approvals Prior to Transition Date:** Prior to the Transition Date, IPA shall obtain the approval, which shall not be unreasonably withheld, conditioned or delayed, of the Renewal Contract Coordinating Committee with respect to each of the following:

6.3.1 The incurrence of any Project Indebtedness to the extent such Project Indebtedness expressly requires the approval of the Renewal Contract Coordinating Committee pursuant to Section 15.1.

6.3.2 The adoption or entering into by IPA of any Bond Resolution or amendment or supplement thereto, to the extent, and only to the extent, it authorizes the issuance or sale of or provides for the security for any Transition Project Indebtedness, provided, no such approval shall be required with respect to any such Bond Resolution, amendment or supplement to the extent it relates to Transition Project Indebtedness for the Gas Repowering or for an Essential Capital Improvement so long as the requirements of the proviso in Section 15.1.2 are satisfied; provided further that, notwithstanding any other provision of this Contract, in no event shall any Renewal Contract Project Indebtedness be issued, nor shall the issuance thereof be approved by the Renewal Contract Coordinating Committee, prior to ~~July~~November 1, ~~2015-2019~~.

6.3.3 Any reduction in the design capacity of a Gas Unit or Gas Units of the Gas Repowering pursuant to Section 44.1 of the Original Power Sales Contract as added by the Second Amendatory Power Sales Contract.

6.3.4 Any other matter arising after the Entitlement Determination Date and prior to the Transition Date as to which Renewal Contract Coordinating Committee approval is required pursuant to any other provision of this Contract and the other Renewal Power Sales Contracts.

6.4 **Consultation Matters:** Prior to the Transition Date, IPA shall consult with, inform or provide, as indicated below, the Renewal Contract Coordinating Committee with regard to the following matters, but shall have no obligation to obtain any approval of or recommendations from the Renewal Contract Coordinating Committee with respect to any such matter:

6.4.1 Consult and inform the Renewal Contract Coordinating Committee with regard to Transition Project Indebtedness to finance the Gas Repowering or Essential Capital Improvements and meeting the requirements of the proviso in Section 15.1.2.

Coordinating Committee may establish other committees including, but not limited to, auditing, legal, financial, insurance, environmental and public information committees or sub-committees. Each committee or sub-committee established by the Renewal Contract Coordinating Committee shall be responsible and report to the Renewal Contract Coordinating Committee.

6.7 **Minutes:** All actions, resolutions, determinations and reports made by the Renewal Contract Coordinating Committee, as required by this Contract shall be set forth in its minutes, except when made by a telephone call or videophone pursuant to Section 6.1, whereupon a written record thereof will be made as soon as possible.

6.8 **Costs of Consultants:** Costs of consultants and others employed or appointed by the Renewal Contract Coordinating Committee to perform the duties hereunder shall be included in the Monthly Power Costs and shall be billed to IPA, the Project Manager or the Operating Agent, as appropriate.

6.9 **Expenses of Representatives:** ~~Any~~[Except as provided in Section 4.67.1.5, any](#) expenses incurred by any representative of any Purchaser or group of Purchasers serving on the Renewal Contract Coordinating Committee or any committee or sub-committee in connection with his or her duties in connection therewith shall be paid by Purchaser or the Purchasers that he or she represents and shall not be included in Monthly Power Costs.

6.10 **Disputed Matters:** The parties hereto recognize that if the Renewal Contract Coordinating Committee is unable or fails to agree with respect to any matter or dispute that it is authorized to determine, resolve, approve or otherwise act upon after a reasonable opportunity to do so, or within the time limits specified in the Construction Management and Operating Agreement, then the Project Manager or the Operating Agent, as appropriate, is authorized to take such action, in a manner consistent with Prudent Utility Practice, as in its discretion is necessary for its timely performance under the Construction Management and Operating Agreement pending the resolution of any such inability or failure to agree; provided, however, that nothing herein shall be construed to allow the Project Manager or the Operating Agent to act in violation of the express terms of the Construction Management and Operating Agreement or this Contract.

6.11 **Compliance with Bond Resolution:** The planning, financing, construction, acquisition, operation and maintenance of the Project must comply in all respects with the requirements of any Bond Resolution in effect from time to time and all licenses, permits and regulatory provisions necessary for such planning, financing, construction, acquisition, operation and maintenance. Therefore, the parties hereto agree that, notwithstanding Section 6.10 or any other provision of this Contract, no action by the Renewal Contract Coordinating Committee, the Project Manager or the Operating Agent shall require IPA to act in any manner inconsistent with any such requirements or to refrain from acting as thereby required, and if the Renewal Contract Coordinating Committee, the Project Manager or the Operating Agent shall fail to make recommendations or to act with respect to any matter in connection with which action is required to be taken pursuant to any of the foregoing, IPA shall take such action as is appropriate to assure compliance therewith.

and shutting down each Gas Unit in compliance with the procedures approved by the Renewal Contract Coordinating Committee pursuant to Section 6.2.9.

9.9 **Points of Delivery:** The Point of Delivery of Purchaser's capacity and energy is set forth in Appendix B attached hereto. IPA shall provide for and Purchaser shall take delivery of its capacity and energy at its Point of Delivery. Purchaser is responsible for arranging for transmission of its capacity and energy from such Point of Delivery to its system. [A Purchaser may not designate a Point of Delivery under this Contract that is different from its Point of Delivery in the Original Power Sales Contracts.](#)

9.10 **Disposal of Energy:** Nothing herein shall prevent Purchaser from disposing of its energy under this Contract; provided, however, that such disposal shall not affect any of the obligations of Purchaser under this Contract.

9.11 **Procurement of Fuel by Purchaser:** Purchaser may elect to procure its own fuel in accordance with the provisions of the Fuel Management Practices and Procedures for use in the Generation Station for the generation of its Generation Entitlement Share, except that Project Fuel shall be utilized for purposes of providing for the fuel storage for the Project for use by Purchaser and the other Purchasers.

## 10. TRANSMISSION SYSTEM ENTITLEMENTS:

10.1 **Southern Transmission System Entitlement:** During the Operational Period of the Southern Transmission System, each Purchaser with a Point of Delivery on the Southern Transmission System shall at all times be entitled to schedule, without regard to source or origin and in accordance with the practices and procedures approved by the Renewal Contract Coordinating Committee pursuant to Section 6.2.7, the use of the operating capabilities of the Southern Transmission System. Such entitlement shall constitute a right to capacity in the Southern Transmission System and shall be determined by dividing (i) such Purchaser's Generation Entitlement Share specified in Appendix B to be delivered at its Point of Delivery on the Southern Transmission System, by (ii) the aggregate Generation Entitlement Shares of all Purchasers specified in Appendix B to be delivered at a Point of Delivery on the Southern Transmission System.

10.2 **Northern Transmission System Entitlement:** During the Operational Period of the Northern Transmission System, each Purchaser with a Point of Delivery on the Northern Transmission System shall at all times be entitled to schedule, without regard to source or origin and in accordance with the practices and procedures approved by the Renewal Contract Coordinating Committee pursuant to Section 6.2.7 the use and operating capabilities of the Northern Transmission System. Such entitlement shall constitute a right to capacity in the Northern Transmission System and shall be determined by dividing (i) such Purchaser's Generation Entitlement Share specified in Appendix B to be delivered at its Point of Delivery on the Northern Transmission System by (ii) the sum of the aggregate Generation Entitlement Shares of all Purchasers specified in Appendix B to be delivered at Points of Delivery on the Northern Transmission System. For the avoidance of doubt, a Purchaser with a Point of Delivery on the Northern Transmission System shall be entitled to schedule, from time to time, on the segment of the Northern Transmission System that connects the Generation Station to

14.4 **Certification upon Completion:** On and after the Transition Date, as soon as practicable after the completion of an Ordinary Capital Improvement or a Major Capital Improvement, IPA shall cause the Operating Agent or Project Manager, as applicable, to submit a certification to the Renewal Contract Coordinating Committee stating (a) that such Capital Improvement has been completed in accordance with the plans and specifications applicable thereto and in accordance with this Contract and the Construction Management and Operating Agreement, (b) the date of such completion and (c) the amount, if any, required for the payment of any remaining part of the cost of such Capital Improvement.

14.5 **Project Component:** Each Capital Improvement shall constitute a part of the Project Component to which it relates as shall be provided by the Renewal Contract Coordinating Committee in connection with its approval of such Capital Improvement.

14.6 **Alternative Repowering:** As of the date of the approval of an Alternative Repowering, if any, by IPA, the Coordinating Committee and, in accordance with Section 6.1.10.2 of this Contract, the Renewal Contract Coordinating Committee, (a) as used in this Contract, the term “Gas Repowering” shall mean such Alternative Repowering, (b) such Alternative Repowering shall constitute the source for electric generation for the Project, (c) such Alternative Repowering shall replace any prior plan for repowering the Project, (d) such Alternative Repowering shall constitute a Capital Improvement determined to be necessary or desirable by the Original Coordinating Committee and the Renewal Contract Coordinating Committee and (e) without the need for consent of Purchaser (other than the affirmation, if any, of Purchaser’s representative that may be necessary for the Original Coordinating Committee or the Renewal Contract Coordinating Committee to take action to approve the revising of this Contract as described in the remainder of this Section 14.6), this Contract shall be revised to the extent determined by IPA, the Coordinating Committee and the Renewal Contract Coordinating Committee (simultaneous with or prior to the approval of such Alternative Repowering) to be necessary to describe such Alternative Repowering as the source or sources of electric generation for the Project.

## 15. PROJECT INDEBTEDNESS:

15.1 **Project Indebtedness Issued Prior to Transition Date:** The following provisions shall apply with respect to the incurrence by IPA of Project Indebtedness prior to the Transition Date:

15.1.1 IPA shall not be required to obtain any approval or consent of the Renewal Contract Coordinating Committee or the Purchasers to incur any Project Indebtedness that is not Transition Project Indebtedness.

15.1.2 If, prior to the Transition Date, IPA issues or incurs any Transition Project Indebtedness, IPA shall obtain the prior approval of the Renewal Contract Coordinating Committee for the incurrence of such Transition Project Indebtedness; provided, however, that no such prior approval shall be required if either (A) (i) such Transition Project Indebtedness is being issued or incurred to finance the Gas Repowering, including any modification thereof or addition thereto, or an Essential Capital Improvement; (ii) such Transition Project Indebtedness shall have Substantially Equal Debt Service for each Fiscal Year

whatsoever to the output, capacity, energy or use of such Project Component; and (c) except as specifically provided in Section 23.9, neither Purchaser nor any of the other Purchasers shall have any further duties or obligations to IPA under their respective Renewal Power Sales Contracts with respect to such Project Component.

23.8 **Treatment of Auxiliary Facilities:** Notwithstanding anything in this Section 23 to the contrary, the retirement of any Project Component shall not result in the retirement or removal from service of any facilities or portion of such Project Component that constitute Auxiliary Facilities with respect to any other Project Component as to which the Operational Period has not ended or with respect to any Additional Non-Project Facilities. Upon the Permanent Removal From Service Date of any Project Component, the facilities or portion of such Project Component that constitute Auxiliary Facilities with respect to any other Project Component or Project Components as to which the Operational Period has not ended shall become part of such other Project Component or Project Components.

23.9 **Retirement of Project Component:** The following provisions shall apply with respect to each Project Component as to which the Permanent Removal From Service Date has occurred, excluding a Project Component, or any portion thereof, that constitutes an IPA Retained Facility:

23.9.1 IPA shall make reasonable commercial efforts to: (i) sell or otherwise dispose of the marketable property and rights constituting a portion of the Project Component, upon terms and conditions that are economically favorable to IPA and consistent with Prudent Utility Practice; (ii) render such Project Component in a condition that complies with all then applicable laws and all contractual obligations of IPA with respect thereto; (iii) dismantle and remove such Project Component thereof so as to restore the area impacted thereby; (iv) render such Project Component in a condition that, in IPA's reasonable discretion, is secure, safe, sanitary and sightly; and ~~(iv)~~ insure or otherwise protect IPA from claims and liabilities that may arise with respect to such Project Component. The actions described in this Section 23.9.1 are referred to in this Contract as the "Retirement Actions" with respect to such Project Component.

23.9.2 IPA shall apply the amounts on deposit in the account in the Retirement Reserve Fund relating to such Project Component to pay the Retirement Costs with respect thereto.

23.9.3 Notwithstanding that the Operational Period with respect to any Project Component (other than an IPA Retained Facility) shall have ended, and notwithstanding anything in this Contract to the contrary, if, at any time or from time to time, IPA incurs Retirement Costs in connection with the Retirement Actions relating to such Project Component in excess of the amount on deposit in the account for such Project Component within the Retirement Reserve Fund and any amounts in the then current Annual Budget for the payment of Retirement Costs for such Project Component (the amount of such excess being referred to as the "Retirement Cost Deficiency"), there shall be provided in the Annual Budget (in addition to any such amounts in the then current Annual Budget), or an amendment thereto, for the Power Supply Year in which such Retirement Cost Deficiency is incurred or expected to be incurred, as Monthly Power Costs with respect to such Project Component, the amount of such Retirement

24.1.6.4 IPA and the Renewal Contract Coordinating Committee shall use their reasonable efforts to determine the form of the Section 39 Facilities Agreement, including the necessary parties thereto.

24.1.6.5 Although the final form and substance of the Section 39 Facilities Agreement shall be subject to the approval of the Renewal Contract Coordinating Committee, one or more Purchasers may be designated by the Renewal Contract Coordinating Committee to act on its behalf in negotiations with IPA and may make recommendations to the Renewal Contract Coordinating Committee regarding the terms and provisions of the Section 39 Facilities Agreement, and the Renewal Contract Coordinating Committee may determine to authorize such Purchaser or Purchasers to enter into the Section 39 Facilities Agreement on behalf of and for the benefit of the Purchasers.

24.2 **Valuation of Project Water Rights:** In determining the Retirement Salvage Proceeds of Project Water Rights allocable to a Project Component pursuant to Section 23.3 as to which IPA makes an election under Section 24.1, IPA shall issue a request for proposals to water users within the basin or watershed to which such water rights relate for the purchase or other acquisition of such water rights. Such request for proposals shall state that IPA is not obligated to sell or otherwise dispose of such Project Water Rights, but rather, may elect to do so based upon the purchase or other acquisition proposals submitted in respect thereto. For purposes of this Contract, the Retirement Salvage Proceeds of any such Project Water Rights shall be deemed to be the cash amount of the highest bona fide bid therefor submitted in response to such request for proposals and such amount shall constitute the Retirement Salvage Proceeds for purposes of Sections 23.4 and 23.5 with respect to such Project Component, notwithstanding any provision thereof to the contrary. In order to constitute a bona fide bid, a bid must be a firm, cash bid, legally binding and subject only to reasonable title assurances to the buyer, and submitted by a party that is reasonably able to pay the amount so bid.

## 25. TERM OF CONTRACT:

25.1 **Term:** The term of this Contract shall begin on the Effective Date and, unless this Contract is terminated earlier as provided in Section ~~17~~17, 31 or ~~31~~42, the term of this Contract shall end on the Renewal Contract Final Termination Date.

25.2 **Regulatory Contract Approvals:** Purchaser and IPA, respectively, shall each obtain any and all required Regulatory Contract Approvals as confirmed by its counsel's legal opinion provided pursuant to Section 25.3. For the avoidance of doubt this Contract shall be void and any and all energy deliveries and any other rights or services under this Contract shall be terminated no later than the effective date of any denial of a required Regulatory Contract Approval, including, without limitation, a decision of the California Energy Commission.

25.3 **Legal Opinions:** Upon the Effective Date and upon the Entitlement Determination Date if different than the Effective Date, (a) Purchaser shall provide to IPA a

for the Second Round Offer to each of the Utah Committed Original Purchasers provide that (i) the Utah Committed Original Purchasers shall have the right to ~~enter into~~[provide to IPA](#) a Utah Orphan Entitlement Allocation ~~Agreement~~[Document](#) within 45 days following the date on which IPA provides its Offer Letter for the Second Round Offer, and (ii) if the Utah Committed Original Purchasers fail to ~~enter into~~[provide to IPA](#) a Utah Orphan Entitlement Allocation ~~Agreement~~[Document](#) as provided in (i) above, such remaining Utah Orphan Purchaser Entitlements shall then be offered to each of the Utah Committed Original Purchasers in proportion to their respective Subscription Generation Entitlement Shares (as a fraction of the Subscription Generation Entitlement Shares for all Utah Committed Original Purchasers) as then set forth in Appendix B of their respective Renewal Power Sales Contracts; and

26.3.1.2 If, as of the First Round Offer Acceptance Date, any remaining Orphan Original Purchaser Entitlements consist of California Orphan Original Purchaser Entitlements, then, IPA shall pursuant to its Offer Letter for the Second Round Offer to each of the California Committed Original Purchasers provide that (i) the California Committed Original Purchasers shall have the right to ~~enter into~~[provide to IPA](#) a California Orphan Entitlement Allocation ~~Agreement~~[Document](#) within 45 days following the date on which IPA provides its Offer Letter for the Second Round Offer, and (ii) if the California Committed Original Purchasers fail to ~~enter into~~[provide to IPA](#) a California Orphan Entitlement Allocation ~~Agreement~~[Document](#) as provided in (i) above, such remaining California Orphan Purchaser Entitlements shall then be offered to each of the California Committed Original Purchasers in proportion to their respective Subscription Generation Entitlement Shares (as a fraction of the Subscription Generation Entitlement Shares for all California Committed Original Purchasers) as then set forth in Appendix B of their respective Renewal Power Sales Contracts.

26.3.2 If, as of the Second Round Offer Acceptance Date, the Offer Acceptances by the Utah Committed Original Purchasers and the California Committed Original Purchasers, respectively, do not permit compliance with Section 26.3.3 or Section 26.3.4, Purchaser's and such other Committed Original Purchasers' Subscription Generation Cost Shares and Subscription Generation Entitlement Shares shall be increased by IPA pursuant to any such Offer Acceptances of the Second Round Offer and their respective Transmission Cost Shares shall be adjusted, if necessary, to reflect such increases, and IPA shall provide Purchasers with a replacement Appendix A for Purchaser's Renewal Power Sales Contract which shall set forth the Generation Cost Shares of Purchaser and such other Committed Original Purchasers (all as increased as provided above) and their applicable Transmission Cost Shares and a replacement Appendix B for Purchaser's Renewal Power Sales Contract which shall set forth the Generation Entitlement Shares of Purchaser and such other Committed Original Purchasers (all as increased as provided above) and their applicable Points of Delivery. Upon the receipt by Purchaser and IPA of any and all required Regulatory Contract Approvals and upon IPA and Purchaser furnishing, each to the other, the required legal opinions pursuant to Section 25.3, such Renewal

31.2 **Restrictions on Termination and Amendment:** None of the Renewal Power Sales Contracts may be terminated as to any one or more of the Purchasers or be amended as to any one or more of the Purchasers so as to provide terms and conditions materially different from those herein contained, except, subject to the provisions of Section 31.1 and consistent with each Bond Resolution, upon written notice to and written consent or waiver by each of the other Purchasers and upon a substantially similar amendment being made to the Renewal Power Sales Contract of any other Purchaser requesting such amendment after receipt by such Purchaser of notice of such amendment.

31.3 **Termination:**

31.3.1 Notwithstanding anything in this Contract to the contrary:

31.3.1.1 ~~31.3.1~~ This Contract shall be automatically terminated if on or prior to the Final Offer Acceptance Date, IPA has not entered into Renewal Power Sales Contracts with Purchasers that have entered into Offer Acceptances as to at least eight-five percent (85%) of the aggregate Original Purchaser Entitlements and associated transmission entitlements and the Entitlement Determination Date shall not have occurred as provided by the applicable provisions of Section 26.

31.3.1.2 ~~31.3.2~~ This Contract shall be automatically terminated, without any action required to be taken by either IPA or the Purchaser, if, as provided in Section 45.1 of the Original Power Sales Contracts as added by the Second Amendatory Power Sales Contracts, the Gas Repowering shall not be undertaken.

31.3.2 Upon termination of this Contract, neither Purchaser nor IPA shall have any further obligation under this Contract (including, without limitation, with respect to Retirement Costs) from and after the effectiveness of such termination but such termination shall not release either IPA or Purchaser, respectively, from any of such party's obligations and liabilities under this Contract that have accrued prior to the effectiveness of such termination.

31.4 **Bond Resolution Changes:** IPA shall not, without the written consent of Purchaser and each of the other Purchasers, amend, modify, supplement or otherwise change any Bond Resolution if such amendment, modification, supplement or change would adversely affect the rights or obligations of Purchaser or the other Purchasers under their respective Renewal Power Sales Contracts; provided that this Section 31.4 shall not limit the power or authority of IPA to supplement any such Bond Resolution in accordance with the terms and provisions of this Contract to provide for the issuance of a series of Debt Instruments for any of the purposes permitted under Section 15.

32. **GOVERNING LAW:** This Contract shall be interpreted, governed by and construed under the laws of the State of Utah.

33. **ARBITRATION:** If a dispute arises between the parties under this Contract that is not resolved by the Renewal Contract Coordinating Committee, the parties to such dispute may submit the dispute to arbitration.

34. **NOTICES:** Notices, demands or requests shall be effected as follows:

34.1 **Manner of Giving of Notice:** Any notice, demand or request provided for in this Contract shall be in writing and shall be deemed properly served, given or made shall be effective if (a) delivered in person; (b) sent by registered or certified mail, postage prepaid; (c) sent by fax to the fax number below; or (d) sent by e-mail to the address indicated below, and to the attention of the person specified below:

34.1.1 Intermountain Power Agency  
c/o General Manager  
10653 South River Front Parkway, Suite 120  
South Jordan, Utah 84095  
Phone: (801) 938-1333  
Fax: (801) 983-1330  
E-mail: jim@ipautah.com

34.1.2 [Name of the Purchaser] NAME OF PURCHASER  
[Title of Official to Receive Notice]  
[Street Address of the Purchaser]  
[City, State Zip Code of Purchaser]  
Phone: [( ) - ]  
Fax: [( ) - ]  
E-mail: [ ]

34.2 **Change of Delivery Information:** By giving written notice to the other party in the manner set forth in Section 34.1, either party to this Contract may, from time to time, change its address, fax number or e-mail address for purposes of this Section 34, and upon such notice being properly given, Section 34.1.1 or 34.1.2, as the case may be, shall be deemed amended to reflect the change.

35. **USE OF PROJECT DOCUMENTS:**

35.1 **Non-Assignable License:** Upon the request of any one or more of the Purchasers, IPA will grant on a non-exclusive basis to such Purchasers or an entity acting on their behalf a non-assignable license to use reproductions of any or all documents, drawings, contracts and systems relating to the Project for use by such Purchaser or Purchasers or such entity in constructing or operating electric generation or transmission facilities at a site designated by such Purchaser, Purchasers or entity; provided, however, that no such license shall be granted if it would adversely affect the eligibility for exemption from Federal income taxes of the interest paid, or to be paid, on any Project Indebtedness.

35.2 **Charge for Reproductions:** IPA shall charge, and such Purchaser, Purchasers or entity shall pay, an amount for such license based on one-half (1/2) of the savings

to such person or entity using such reproductions, as determined by the Renewal Contract Coordinating Committee and IPA, or shall make payment based on such other considerations as shall be acceptable to the Renewal Contract Coordinating Committee and IPA.

36. **INTERCONNECTION AGREEMENTS:** Purchaser hereby agrees that IPA may comply with the requirements of any agreement or arrangement approved by the Original Contract Coordinating Committee or the Renewal Contract Coordinating Committee with respect to furnishing start-up and black start power from the Project. All amounts received by IPA for furnishing such service after the Transition Date shall be applied as a credit against Monthly Power Costs pursuant to the Renewal Power Sales Contracts.

37. **INSURANCE PROVISIONS:** IPA shall take reasonable and prudent steps in the interest and for the protection of all Purchasers to maintain, or cause to be maintained, properly designed and properly underwritten Project property and casualty insurance programs for each Project Component during the Operational Period and for each Capital Improvement during the construction phase thereof and, as determined by IPA, fiduciary liability insurance for directors and officers of IPA. Such insurance programs shall provide the broadest coverage economically feasible. IPA shall make every economically feasible effort to incorporate into the Project such insurance, including without limitation, property insurance program extra-expense and business interruption coverage tied to all perils covered by the property insurance program, automobile liability insurance, insurance against risk of liability under environmental laws and regulations and insurance covering losses resulting from failure or interruption of the Project Fuel supply for the Project.

38. **PAYMENTS-IN-AID OF CONSTRUCTION:**

38.1 **Project Components:** Subject to compliance with the conditions contained in this Section 38:

38.1.1 If and to the extent requested by IPA, any one or more Purchasers or an entity acting on behalf of one or more Purchasers may agree to make payments-in-aid of construction for the Generation Station.

38.1.2 The California Purchasers or an entity acting on their behalf may agree to make payments-in-aid of construction for the Southern Transmission System.

38.1.3 The ~~Intermountain~~Utah Purchasers or an entity acting on their behalf may agree to make payments-in-aid of construction for the Northern Transmission System.

38.2 **Construction Aid Agreement:** Any payments-in-aid of construction provided for by this Section 38 shall be made in accordance with an agreement entered into between such Purchasers or entity acting on their behalf and IPA (the "Construction Aid Agreement"). The Construction Aid Agreement shall set forth the procedures for the making of such payments, and such other matters relating thereto as shall be consistent with applicable IPA agreements and which shall be agreed to by the parties.

Coordinating Committee, IPA shall use its best efforts to proceed, subject to compliance with the laws of Utah and such applicable IPA agreements, with the development of such expansion or addition. The foregoing procedures may be modified with the approval of IPA and the Renewal Contract Coordinating Committee.

41. **NORTHERN TRANSMISSION SYSTEM TRANSMISSION SERVICE:**

41.1 **Unused Capacity:** Subject to contractual rights with respect to the Northern Transmission System, IPA may schedule the unused capacity of such System for transmission service for other utilities pursuant to procedures prescribed by the Operating Agent.

41.2 **Application of Payments:** All amounts received by IPA after the Transition Date as payments for any such transmission service pursuant to this Section 41 shall be applied as a credit against Monthly Power Costs with respect to the Northern Transmission System pursuant to the Renewal Power Sales Contracts.

42. **RIGHTS OF CERTAIN PURCHASERS TO TERMINATE THEIR RENEWAL POWER SALES CONTRACTS OR REDUCE THEIR GENERATION ENTITLEMENT SHARES:**

42.1 **Termination of Renewal Power Sales Contracts or Reduction of Generation Entitlements.** From and after the Entitlement Determination Date, each of the California Purchasers, other than Los Angeles, shall have the right to terminate its Renewal Power Sales Contract or to reduce its Generation Entitlement Share and its Generation Cost Share, respectively, by an amount not exceeding twenty (20%) percent thereof, effective ~~July~~November 1, ~~2015,2019~~, by providing written notice to IPA of such termination of its Renewal Power Sales Contract or such reduction of its Generation Entitlement Share and Generation Cost Share, as applicable, at least ninety (90) days prior to ~~July~~November 1, ~~2015,2019~~. Such a notice by such a California Purchaser with respect to a reduction of its Generation Entitlement Share and Generation Cost Share shall specify the portion thereof (not exceeding twenty (20%) percent thereof) to be reduced. IPA agrees to inform each of the other Purchasers of its receipt of such a notice or notices from each such California Purchaser. Effective on ~~July~~November 1, ~~2015,2019~~, (i) the Renewal Power Sales Contract of each such California Purchaser providing such notice of the termination thereof shall terminate, and the Generation Entitlement Share and Generation Cost Share of each such California Purchaser providing such notice of reduction thereof shall be reduced (as specified in such notice) under the Renewal Power Sales Contracts; and (ii) except as otherwise provided in Section 42.3, the respective Generation Entitlement Share and Generation Cost Share of each remaining Purchaser (other than any such California Purchaser that provides such notice to IPA) shall be increased to include that portion of the amount of the Terminated and Reduced Entitlements as determined in accordance with the ratio that such remaining Purchaser's Generation Entitlement Share bears to the total of the Generation Entitlement Shares of all such remaining Purchasers.

42.2 **Replacement of Appendices A and B.** In the event of the termination by one or more of the California Purchasers (excluding Los Angeles) of its or their Renewal Power Sales Contracts or the reduction by one or more of such California Purchasers of its or

their Generation Entitlement Shares and Generation Cost Shares, in each case as provided in Section 42.1, IPA, except as otherwise provided in Section 42.3, shall on or prior to ~~July~~November 1, ~~2015~~2019 furnish each of the Purchasers (including Los Angeles) that remains a party to its Renewal Power Sales Contract with replacements of Appendix A and Appendix B of its Renewal Power Sales Contract providing for the following:

42.2.1 The removal from Appendix A and Appendix B of such California Purchaser or California Purchasers that shall have terminated its or their Renewal Power Sales Contracts and the deletion from Appendix A and Appendix B of its or their applicable Cost Shares and Generation Entitlement Shares.

42.2.2 The increase of the Generation Cost Share of each remaining Purchaser under its Renewal Power Sales Contract to include that portion of the amount of the Terminated and Reduced Purchaser Entitlements determined in accordance with the ratio that each such remaining Purchaser's Generation Cost Share set forth in Appendix A bears to the total of the Generation Cost Shares set forth in such Appendix A for all remaining Purchasers.

42.2.3 The increase of the Generation Entitlement Share of each remaining Purchaser under its Renewal Power Sales Contracts to include that portion of the amount of the Terminated and Reduced Purchaser Entitlements determined in accordance with the ratio that each such remaining Purchaser's Generation Entitlement Share set forth in Appendix B bears to the total of the Generation Entitlement Shares set forth in Appendix B for all remaining Purchasers.

42.2.4 The adjustment, if necessary, of the Transmission Cost Share of each such remaining Purchaser to reflect the increase of each such remaining Purchaser's Generation Entitlement Share as provided for under Section 42.2.3.

42.3 **Separate Agreement By Los Angeles.** In the event, however, of the termination by one or more of the California Purchasers (excluding Los Angeles) of its or their Renewal Power Sales Contracts or the reduction by one or more of such California Purchasers of its or their Generation Entitlement Shares and Generation Cost Shares, in each case as provided in Section 42.1 and the separate agreement under the Renewal Power Sales Contracts by Los Angeles prior to ~~July~~November 1, ~~2015~~2019 to increase its Generation Entitlement Share and its Generation Cost Share to include the amount of the Terminated and Reduced Purchaser Entitlements, or any portion thereof, and to the adjustment of its Southern Transmission Cost Share to reflect such increase of its Generation Entitlement Share, then IPA shall furnish each of such remaining Purchasers (including Los Angeles) with replacements of Appendix A and Appendix B of its Renewal Power Sales Contract. In addition to the removal from such replacements of Appendix A and Appendix B of each such California Purchaser or California Purchasers that shall have terminated its or their Renewal Power Sales Contracts and the deletion therefrom of its or their Generation Entitlement Shares and Cost Shares, such replacements of Appendix A and Appendix B shall provide for such increase, as agreed to by Los Angeles, of its Generation Entitlement Share and its Generation Cost Share by the amount of such Terminated and Reduced Purchaser Entitlements, or such portion thereof, and for such adjustment of Los Angeles' Southern Transmission Cost Share to reflect such increase in its Generation Entitlement Share. Any remaining portion of such Terminated and Reduced

Purchaser Entitlements that is not included under such agreement by Los Angeles shall be allocated to such remaining Purchasers, including Los Angeles, in the manner provided in Section 42.2; and IPA shall provide in such replacement Appendix A and replacement Appendix B for such allocation of the remaining Terminated and Reduced Purchaser Entitlements to such remaining Purchasers, including Los Angeles.

42.4 **Reduction of Design Capacity of Gas Units by Terminated and Reduced Purchaser Entitlements.** Except to the extent that Los Angeles shall agree to the allocation to it of the Terminated and Reduced Purchaser Entitlements, or a portion thereof, as provided in Section 42.3, the design capacity of the Gas Units under Section 44.1 of the Original Power Sales Contracts, as added by the Second Amendatory Power Sales Contracts, shall be reduced by that amount of the generating capacity of the terminated and reduced Generation Entitlement Shares included in the Terminated and Reduced Purchaser Entitlements that is not included in any Generation Entitlement Share of Los Angeles as adjusted pursuant to Section 42.3.

[Remainder of page intentionally left blank]

**APPENDIX D**

**FORM OF AGREEMENT FOR SALE OF RENEWAL EXCESS POWER**

[~~see~~[See](#) attached]

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AGREEMENT FOR SALE OF RENEWAL EXCESS POWER

AMONG

EACH SELLER NAMED HEREIN

and

CALIFORNIA PURCHASERS NAMED HEREIN

and

DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, as  
Representative of the California Purchasers

and

INTERMOUNTAIN POWER AGENCY

\_\_\_\_\_

Dated: \_\_\_\_\_, ~~2013~~201

## AGREEMENT FOR SALE OF RENEWAL EXCESS POWER

1. PARTIES. This Agreement made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, ~~2013~~, 201, among each Seller named on Appendix B hereto (each, a “Seller” and collectively, the “Sellers”), each California Purchaser named on Appendix B hereto (each, a “California Purchaser” and collectively, the “California Purchasers”), the Department of Water and Power of the City of Los Angeles (“LADWP”), as representative of the California Purchasers, and Intermountain Power Agency (“IPA”).
2. RECITALS.
  - 2.1 Each Seller and each of the California Purchasers are purchasers under certain Power Sales Contracts with IPA entered into as of September 28, 1978 (for the Sellers) and August 6, 1980 (for the California Purchasers), as amended, for the purchase of electric power and transmission capacity from the Intermountain Power Project from IPA (the “Original Power Sales Contracts”); and
  - 2.2 Certain of the Sellers and certain of the California Purchasers are parties to the Excess Power Sales Agreement, entered into as of December 1, 1980, as amended, for the purchase by such California Purchasers of certain excess electric capacity and associated energy of the Project from such Sellers during the term of the Original Power Sales Contracts; and
  - 2.3 Each of the Sellers has entered into a Renewal Power Sales Contract, dated as of \_\_\_\_\_, ~~2013~~, 201, by and between it and IPA (together with substantially similar contracts by IPA with other participants in the Project, the “Renewal Power Sales Contracts”) providing to each Seller a Generation Entitlement Share and entitling such Seller, commencing upon the expiration of the Original Power Sales Contracts, to schedule electric capacity and energy from each generating facility of the Project and to use the operating capabilities of the Northern Transmission System of the Project; and
  - 2.4 Each Seller will determine the amount, if any, of Project electric capacity and associated energy to which it is entitled pursuant to its Renewal Power Sales Contract with IPA that will be in excess of its electric requirements; and
  - 2.5 Each Seller desires to sell, and the California Purchasers desire to purchase, on the terms and conditions set forth in this Agreement any such excess Project electric capacity and associated energy of such Seller under its Renewal Power Sales Contract; and
  - 2.6 Each Seller has further determined that a portion of its Northern Transmission System capacity entitlement will be excess to its needs.

that, as provided in Section 45.1 of the Original Power Sales Contracts as added by the Second Amendatory Power Sales Contracts, dated as of \_\_\_\_\_, by and among IPA and the purchasers thereunder, the Gas Repowering shall not be undertaken. This Agreement shall constitute a binding obligation of each of the Sellers, IPA, each of the California Purchasers and the Purchasers' Representative from and after the Effective Date in accordance with this Section 20.1.

20.2 Except as provided in Section 20.3 hereof, this Agreement shall terminate as soon after the earlier to occur of the following as all payments required to be made under this Agreement by the California Purchasers through the date of such occurrence have been made:

20.2.1. The last day of the Excess Power Supply Year during which a Complete Outage shall have been in effect for a period longer than 18 Months.

20.2.2. The last day of the end of the six-month period next following the Excess Power Supply Year for which Appendix A sets forth the Total Excess Entitlement Share as zero with respect to both the Summer Season and the Winter Season.

20.3 The provisions of Section 8 hereof shall survive any termination of this Agreement pursuant to Sections 20.2.1 and 20.2.2 hereof, and Section 8 hereof and the provisions of this Agreement related thereto shall terminate only upon the date upon which all Renewal Power Sales Contracts shall terminate.

20.4 Notwithstanding any other provision of this Agreement, in the event that any California Purchaser or California Purchasers (excluding Los Angeles) shall terminate its or their Renewal Power Sales Contracts pursuant to Section 42 of the Renewal Power Sales Contracts, such California Purchaser or California Purchasers, as applicable, shall be removed as a party or as parties, as the case may be, under this Agreement effective ~~July~~November 1, ~~2015~~2019 and shall no longer be entitled to any benefits or subject to any obligations under this Agreement, and the Purchase Percentage of Los Angeles shall be increased by the Purchase Percentage or Purchase Percentages, as applicable, of such California Purchaser or California Purchasers that shall terminate its or their Renewal Power Sales Contracts pursuant to Section 42 thereof.

21. SEVERABILITY. In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, it is the intention of each of the parties hereto that such illegality or invalidity shall not affect any other provision hereof, but this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein unless a court holds that the provisions are not separable from all other provisions of this Agreement.

22. PERFORMANCE BY IPA. IPA provides such services, takes such actions and performs its other obligations under this Agreement as part of its duties and responsibilities under