

FIRM ENERGY SALE AGREEMENT
executed by the
UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
acting by and through the
BONNEVILLE POWER ADMINISTRATION
and
ELF ATOCHEM NORTH AMERICA, INC.

Index to Sections

Section		Page
1.	Term	3
2.	Definitions	3
3.	Exhibits; Interpretations	6
4.	Firm Energy Sale by Bonneville to Atochem	6
5.	Rate, Additional Costs, and Offsets	7
6.	Billing and Payment	8
7.	Allocation of Curtailed Energy	11
8.	Contract Revisions	13
9.	Force Majeure	13
10.	Assignment of Agreement	18
11.	Notices	19
12.	Governing Law	20
13.	Waivers	20
14.	Severability	20
15.	Dispute Resolution and Arbitration	21
16.	Relationship to the Enron Agreement	21
17.	Early Termination Due to Triggering Event	22
18.	Option to Terminate Due to Termination of the Enron Agreement	26
19.	Atochem's Rights in the Event of Termination	27
20.	Signature Clause	28
	Exhibit A (Wholesale Power and Transmission Rate Schedules and General Rate Schedule Provisions)	6
	Exhibit B (General Contract Provisions)	6
	Exhibit C (Point of Delivery)	6
	Exhibit D (Use-of-Facilities Charge)	6

This FIRM ENERGY SALE AGREEMENT (Agreement) is executed as of December
18, 1995, by the UNITED STATES OF AMERICA, Department of Energy, acting by and
through the BONNEVILLE POWER ADMINISTRATION (Bonneville) and ELF ATOCHEM NORTH AMERICA,

INC. (Atochem). Bonneville and Atochem are hereinafter sometimes referred to individually as "Party" and collectively as "Parties."

WITNESSETH:

WHEREAS on August 31, 1981, Bonneville and Atochem entered into Contract No. DE-MS79-81BP90355, hereinafter referred to as "Prior Contract"; and

WHEREAS on December 18, 1995, Bonneville and Atochem entered into Contract No. 95MS-94856, hereinafter referred to as "Block Sale Agreement"; and

WHEREAS on December 18, 1995, Bonneville and Enron Power Marketing, Inc. (Enron) entered into Contract No. 96MS-95112, hereinafter referred to as "Enron Agreement," under which Bonneville purchases energy from Enron in order to support the sale by Bonneville to Atochem under this Agreement; and

WHEREAS Bonneville desires to sell, and Atochem desires to purchase, firm capacity and energy pursuant to the terms and conditions of this Agreement; and

WHEREAS Bonneville is authorized pursuant to law to dispose of electric capacity and energy generated at various Federal hydroelectric projects in the Pacific Northwest or acquired from other resources, to construct and operate transmission facilities, to provide transmission and other services, and to enter into agreements to carry out such authority;

NOW, THEREFORE, the Parties hereto agree as follows:

1. TERM

This Agreement, when executed by the Parties shall become effective at hour ending 0100 hours on April 1, 1996 (Effective Date), and shall continue in effect until hour ending 2400 hours on September 30, 1998. All obligations incurred hereunder are hereby preserved until satisfied.

2. DEFINITIONS

The following terms, when used in this Agreement with initial capitalization, whether singular or plural, shall have the meanings specified.

(a) "Agreement" means this Firm Energy Sale Agreement between Bonneville and Atochem.

- (b) "Contract Demand" means the maximum hourly rate of delivery at the Point of Delivery for Firm Energy deliveries by Bonneville to Atochem under this Agreement.
- (c) "Contract Year" means the year beginning October 1 and ending the following September 30; **provided, however,** that the first Contract Year shall begin on April 1, 1996, and end on September 30, 1996.
- (d) "FERC" means the Federal Energy Regulatory Commission or its successor.
- (e) "Firm Energy" means the energy sold by Bonneville and purchased by Atochem under this Agreement.
- (f) "Material Adverse Change" means, with respect to Atochem only, (1) any of Elf Aquitaine S.A.'s long-term unsecured debt not supported by third-party enhancement rated by Standard & Poor's Corporation (S&P) and Moody's Investors Service (Moody's), is rated below BBB- by S&P and below Baa3 by Moody's; or (2) Elf Aquitaine S.A. ceases to own, directly or indirectly, 51 percent or more of the capital stock of Atochem.
- (g) "Point of Delivery" means the point described in Exhibit C where Bonneville delivers Firm Energy to Atochem.
- (h) "Take-or-Pay" means, for Firm Energy delivered by Bonneville, that Atochem shall take and pay or not take and still pay for such Firm Energy, subject to remarketing credits, if any, under section 5(c).
- (i) "Triggering Event" shall mean, with respect to a Party (the "Affected Party"):
 - (1) the failure by the Affected Party to make, when due, any payment required under this Agreement if such failure is not remedied within 5 business days after written notice of such failure is given to the Affected Party; **provided,** the payment is not the subject of a good faith dispute as described in the billing payment provisions under section 6; or
 - (2) the representation made by the Affected Party in section 20 of this Agreement shall prove to have been false when made; or
 - (3) the failure by the Affected Party to perform any material covenant set forth in this Agreement (other than its obligations to purchase or sell energy or its obligations to make

any payment) and such failure is not excused by Force Majeure or cured within 5 business days after written notice thereof to the Affected Party; or

- (4) the Affected Party:
 - (A) makes an assignment or any general arrangement for the benefit of creditors;
 - (B) files a petition or otherwise commences, authorizes, or acquiesces in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors, or have such petition filed against it and such proceeding remains undismissed for 30 days;
 - (C) otherwise becomes bankrupt or insolvent (however evidenced); or
 - (D) is unable to pay its debts as they fall due; or
- (5) Bonneville's unexcused failure to deliver the Firm Energy for a cumulative period of 50 or more days within a 12-month period; or
- (6) the occurrence of a Material Adverse Change, **provided**, such Material Adverse Change shall not be considered if the Affected Party establishes, within a reasonable period, and maintains throughout the remaining term of this Agreement, a letter of credit (naming the Notifying Party as the beneficiary) in an amount equal to the sum of:
 - (A) the Notifying Party's Termination Payment, plus
 - (B) if the Notifying Party is Bonneville, the aggregate of the amounts Bonneville is entitled to receive under this Agreement for Firm Energy scheduled during the 60-day period preceding the Material Adverse Change (the amount of said letter of credit to be adjusted quarterly to reflect amounts owing at that point in time);
or
- (7) the Affected Party fails to establish, maintain, extend or increase a letter of credit when required pursuant to section 2(i)(6) of this Agreement, or after reasonable notice fails to take reasonable actions to replace the issuing bank with another bank acceptable to the beneficiary, which acceptance shall not be unreasonably withheld; or

(8) if at any time, Atochem shall have defaulted on its indebtedness to third parties resulting in an acceleration of its obligations in excess of \$50,000,000.

(j) "Workday" means each day that both Parties observe as a regular day of work.

3. EXHIBITS; INTERPRETATIONS

Wholesale Power and Transmission Rate Schedules and General Rate Schedule Provisions (Exhibit A), General Contract Provisions (Exhibit B), Point of Delivery (Exhibit C), and Use-of-Facilities Charge (Exhibit D) are attached hereto and hereby made a part of this Agreement. If there is a conflict between the body of this Agreement and the exhibits attached hereto, then the body of this Agreement shall prevail.

4. FIRM ENERGY SALE BY BONNEVILLE TO ATOCHEM

Except for curtailments that are relieved from Take-or-Pay under section 7(d), and subject to the terms and conditions of section 5(c), beginning on the Effective Date, and continuing through the term of this Agreement, Bonneville shall sell and deliver to Atochem, and Atochem shall Take-or-Pay the following amounts of Firm Energy:

<u>Contract Year</u>	<u>Firm Energy (MWh)</u>
04/01/96 – 09/30/96	303,048
10/01/96 – 09/30/97	604,440
10/01/97 – 09/30/98	604,440

Bonneville shall deliver 69 megawatts of Firm Energy to Atochem at a "flat" rate of delivery during all hours, at the Point of Delivery specified in Exhibit C. The Contract Demand shall not exceed 69 megawatts.

5. RATE, ADDITIONAL COSTS, AND OFFSETS

(a) **Rate**

The rate for Firm Energy shall be in accordance with Bonneville's Surplus Firm Power (SP-93) rate schedule, or its successor, and shall be equal to \$16.30 per megawatthour, plus:

- (1) Bonneville's transmission charges under the Integration of Resources transmission rate schedule, or under such other applicable transmission product available to Atochem under section 19(d) of the Block Sale Agreement;
- (2) the use-of-facilities charge specified in Exhibit D for delivery to the plant;

- (3) the applicable Bonneville fees, if any, for scheduling and dispatching, as specified in Exhibit A; and
- (4) subject to section 5(b), 0.15 mills per kilowatthour, as compensation for all other costs that Bonneville incurs to provide this service.

(b) **Additional Costs**

In addition, Atochem shall reimburse Bonneville for the following costs incurred by Bonneville under the Enron Agreement:

- (1) applicable taxes, if any, pursuant to section 8(b) of the Enron Agreement;
- (2) additional incremental transmission charges incurred as a result of a Force Majeure under sections 11(b)(2) and 11(b)(4) of the Enron Agreement; and
- (3) payment for losses made by Bonneville pursuant to section 4(d) of the Enron Agreement.

(c) **Offsets Due to Remarketing Under the Enron Agreement**

If, during any month of any Contract Year, Atochem's curtailments of Firm Energy exceed the applicable amount specified in section 7(d) of this Agreement, then, subject to the terms of section 10 of the Enron Agreement, Bonneville shall notify Enron to remarket such curtailed Firm Energy. Atochem shall be deemed to have purchased such curtailed Firm Energy at the applicable rate and charges specified in sections 5(a) and 5(b) of this Agreement, and Bonneville shall credit Atochem's power bill for the amount of such curtailed Firm Energy remarketed by Enron, at the Net Sum as provided for in section 10 of the Enron Agreement.

6. BILLING AND PAYMENT

Bills for power shall be rendered monthly by Bonneville. Failure to receive a bill shall not release Atochem from liability for payment. If requested by Atochem, Bonneville will electronically transmit Atochem's power bill to Atochem on the issue date of the bill, provided the Parties have compatible electronic equipment. Bonneville may elect to electronically transmit only that portion of the bill showing the amount owed. If the entire bill is not provided by electronic means, Bonneville will also send Atochem a complete copy of its power bill by mail.

(a) **Due Date**

Bills shall be due by close of business on the 20th day after the date of the bill (Due Date). This requirement also holds for revised bills (see section 6(h)). If the 20th day is a Saturday, Sunday, or Federal holiday, the Due Date shall be the next business day.

(b) **Payments of \$50,000 or More**

(1) If Atochem's monthly bill from Bonneville is \$50,000 or more, Atochem must pay by wire transfer using procedures established by Bonneville's Financial Services Group, unless Atochem has obtained the right to pay by mail as provided in section 6(b)(2). Wire transfer amounts are due and payable on the Due Date.

(2) Atochem may pay its bill by mail even if the amount exceeds \$50,000, provided the following conditions have been met:

(A) Atochem gives Bonneville 30 days' notice of its intent to pay by mail;

(B) Atochem ensures that Bonneville receives full payment by the above-stated Due Date; and

(C) Atochem has not incurred late payment charges while paying its bills by mail.

If Atochem incurs a late payment charge while paying its bills under this payment provision, Bonneville may rescind Atochem's right to pay bills of \$50,000 or more by mail. Atochem would then be required to pay by wire transfer as provided in section 6(b)(1).

(c) **Payments of Less than \$50,000**

If Atochem's monthly bill from Bonneville is less than \$50,000, Atochem may pay the bill by mail. Payment for such bills will be accepted as timely if the payment is postmarked by the Due Date. Payments shall be mailed to:

Bonneville Power Administration
P.O. Box 6040
Portland, OR 97228-6040

(d) **Computation of Bills**

Bills for products and services purchased under this Agreement shall be rounded to whole dollar amounts, by eliminating any amount which is less than 50 cents and increasing any amount from 50 cents through 99 cents to the next higher dollar.

(e) **Estimated Bills**

At its option, Bonneville may elect to render an estimated bill for a month to be followed at a subsequent billing date by a final bill for that month. Such estimated bill shall have the validity of, and be subject to, the same payment provisions as a final bill.

(f) **Late Payment**

Bills not paid in full on or before close of business on the Due Date shall be subject to an interest charge of one-twentieth percent (0.05 percent), applied each day to the unpaid balance. This interest charge shall be assessed on a daily basis until such time as the unpaid amount is paid in full.

Remittances received by mail which are not required to be paid by wire transfer will be accepted without assessment of the charges referred to in the preceding paragraph of this section⁶(f), provided the postmark indicates the payment was mailed on or before the Due Date.

(g) **Disputed Bills**

In the event of a billing dispute, Atochem agrees to note the disputed amount and pay its power bill in full by the Due Date. The amount billed is subject to late payment charges until paid in full. If it is determined that Atochem is entitled to a refund of any portion of the disputed amount, then Bonneville will make such refund with interest computed from the date of receipt of the disputed payment. Interest will be computed using an interest rate of one-twentieth percent (0.05 percent) applied each day to the disputed payment amount. Bonneville shall not be liable for interest prior to the time Atochem notifies Bonneville of the dispute. Disputed bills are subject to the terms and conditions of section 15 of this Agreement.

(h) **Revised Bills**

As necessary, Bonneville may render revised bills. The date of a revised bill shall be its issue date.

- (1) If the amount of the revised bill is more than the amount of the previous bill, the previous bill remains due on its Due Date, and the additional amount is due on the Due Date of the revised bill.
- (2) If the amount of the revised bill is less than the amount of the previous bill, the obligation to pay the previous bill is satisfied by payment of the revised bill on the Due Date of the previous bill.

- (3) If the revised bill changes the Party to whom money is due, the previous bill is canceled and the amount owed the other Party is due on the Due Date of the revised bill.
- (4) If payment of the previous bill results in an overpayment, a refund is due on the later of:
(A) the Due Date of the revised bill, or (B) 20 days after the receipt of the payment for the original bill.

7. ALLOCATION OF CURTAILED ENERGY

(a) Notice to Curtail

Except for events of Force Majeure, Atochem shall notify Bonneville, prior to the time that a preschedule is required to be submitted under the Enron Agreement, that it wishes to curtail deliveries in whole or in part for such preschedule. Atochem shall not curtail Firm Energy hereunder to replace such Firm Energy with energy purchased from other suppliers. Therefore, Atochem shall not request that deliveries be so curtailed unless Atochem reduces the energy consumption at its facilities below 84 megawatt-hours per hour.

(b) Allocation of Curtailments Due to Force Majeure or Planned Maintenance

If curtailments of energy consumption at Atochem's facilities occur due to either a Force Majeure or planned maintenance at Atochem's facilities, then such curtailed energy shall be allocated between this Agreement and the Block Sale Agreement as follows:

- (1) Atochem shall instruct Bonneville to reduce the prescheduled amounts delivered under this Agreement by the amount of curtailed energy multiplied by 81 percent.
- (2) Atochem shall reduce the prescheduled amounts under the Block Sale Agreement by the amount of curtailed energy multiplied by 19 percent.

(c) Allocation of Curtailments Due to Reasons Other than Force Majeure or Planned Maintenance

If curtailments of energy consumption at Atochem's facilities occur due to reasons other than Force Majeure or Planned Maintenance, then Atochem shall instruct Bonneville to reduce the delivered amounts under this Agreement by the amount of curtailed energy multiplied by 100 percent. If such curtailments exceed the amounts that would otherwise be delivered under this Agreement, then such excess shall be deemed to be a reduction of prescheduled amounts under the Block Sale Agreement.

(d) **Relief from Take-or-Pay**

Atochem shall be relieved of its Take-or-Pay obligation hereunder during each Contract Year for curtailments of Firm Energy in amounts for all curtailments (exclusive of Force Majeure, for which Atochem shall also be relieved of its Take-or-Pay obligation), not to exceed the following:

<u>Contract Year</u>	<u>Amount of Take-or-Pay Energy Relieved (MWh)</u>
04/01/96 – 09/30/96	15,152
10/01/96 – 09/30/97	30,222
10/01/97 – 09/30/98	30,222

8. CONTRACT REVISIONS

(a) **Contract Amendments**

Except as otherwise expressly provided to the contrary in this Agreement, the provisions of the body of this Agreement or exhibits may be amended only by mutual written agreement of the Parties.

(b) **Revision of Exhibit A**

The rate schedules and rate schedule provisions included in Exhibit A shall be replaced by successor rate schedules and rate schedule provisions in accordance with the provisions of Section 7(i) of the Northwest Power Act and FERC rules. Any such replacement shall not change the price for Firm Energy set forth in the initial paragraph of section 5(a) of this Agreement.

(c) **Revision of Exhibit D**

Exhibit D of this Agreement may be revised by Bonneville in the same manner and under the same terms and conditions for revision of the use-of-facilities charge under section 8(b)(2) of the Block Sale Agreement, except as limited by the terms and conditions of Exhibit I of the Block Sale Agreement.

9. FORCE MAJEURE

(a) **Definition of Force Majeure**

“Force Majeure” means an event beyond the reasonable control and without the fault or negligence of the Party claiming Force Majeure. Force Majeure includes but is not limited to:

- (1) strikes or work stoppages, including threats of strikes or imminent strikes, the settlement of which shall be at the sole discretion of the Party subject to the strike;

- (2) events reasonably beyond the control of the Parties (including those events creating actual or imminent safety problems or the unavailability of power at any price) and which the Party could not, by exercise of reasonable diligence and foresight, have been expected to avoid;
- (3) floods or other natural disasters;
- (4) order or injunction preventing performance under this Agreement entered by any court or public authority (whether valid or invalid) other than an officer of Bonneville or the Department of Energy, which cannot be stayed, suspended, or set aside pending review of such order;
- (5) any event of Force Majeure as defined in the Enron Agreement, that prevents and excuses performance of the obligations of Bonneville or Enron under the Enron Agreement; or
- (6) any final order entered, in any lawsuit filed within 90 days of the time that Bonneville's action of entering into this Agreement is final for judicial review, by a court of competent subject matter jurisdiction setting aside such final action.

Neither the unavailability of funds or financing, nor economic conditions of national or local economies or markets, nor the economic hardship of either Party shall be considered a Force Majeure.

(b) Obligations of the Parties in the Event of Force Majeure

Each Party shall notify the other as soon as possible of any Force Majeure which may, in any way, affect the delivery of Firm Energy under this Agreement.

To the extent either Party is prevented, for the duration of the Force Majeure, from meeting its obligations under this Agreement by a Force Majeure, both Parties shall be excused from their respective obligations, other than payment obligations accruing prior to the Force Majeure event, and without liability to the other for the period reasonably required to restore the affected Party's ability to deliver or accept Firm Energy.

(c) Force Majeure Under Section 9(a)(5)

In the event of the occurrence of Force Majeure under section 9(a)(5), the obligations of the Parties shall be modified for the duration of the Force Majeure as follows:

- (1) Unless Bonneville is physically prevented from making deliveries by such occurrence or by an additional Force Majeure, or Bonneville is requested by Atochem to discontinue service to all or part of the load served under this Agreement, Bonneville will continue to meet Atochem's full load during the Force Majeure.
 - (2) During the Force Majeure, Bonneville shall deliver and Atochem shall pay Bonneville for such energy that would otherwise be delivered under this Agreement for the remainder of the hour in which the Force Majeure began, plus the ensuing full hour if applicable, under the Block Sale Agreement, at a price equal to the Unauthorized Increase rate in Exhibit A.
 - (3) Thereafter, if the Force Majeure continues in effect, Bonneville shall provide energy to Atochem at the then-current hourly Surplus Firm Power rate if Bonneville has available energy plus the charges described in sections 5(a)(2), 5(a)(3), and 5(a)(4). If Bonneville does not have available energy, then Bonneville shall purchase energy and provide such energy to Atochem at Bonneville's cost to purchase such energy, plus the charges described in sections 5(a)(1), 5(a)(2), 5(a)(3), 5(a)(4), and the amount that Bonneville would have paid to Enron for losses under section 5(b)(3).
 - (4) Bonneville shall take the actions specified under section 11(b) of the Enron Agreement and all other reasonable actions to avoid or cure the Force Majeure thereunder. Any energy available to Bonneville to meet its obligations under section 9(c)(3) shall first be offered to Enron to cure such Force Majeure.
- (d) **Force Majeure Under Section 9(a)(4), 9(a)(6), or Section 11(a)(4) of the Enron Agreement**
In the event of a Force Majeure under section 9(a)(4), 9(a)(6), or section 11(a)(4) of the Enron Agreement, if this Agreement or any related agreement can be amended or restructured to cure any deficiency identified by such court while still providing each Party the same economic benefits at the same costs as provided for in this Agreement, then the Parties shall so amend or restructure this Agreement and related agreements. If, after all reasonable efforts, the Parties are unable to so amend or restructure this Agreement and related agreements under either of the following circumstances, then this Agreement shall terminate and the Parties shall have no further rights or obligations under this Agreement except for those rights or obligations which by this Agreement expressly survive termination or rights or obligations which arise as a result of termination and such obligations or liabilities arising from prior performance under this Agreement:

- (1) 90 days have expired following any final order or final injunction described in section 9(a)(4) or 9(a)(6) of this Agreement or section 11(a)(4) of the Enron Agreement; or
- (2) upon entry of a final order or final injunction described in section 9(a)(4) or 9(a)(6) of this Agreement or section 11(a)(4) of the Enron Agreement, if such final order or injunction had been preceded for a period in excess of 90 days by an equivalent nonfinal order or nonfinal injunction and the Parties made all reasonable efforts to restructure or amend and failed to do so.

(e) In the event of Force Majeure as described in:

- (1) section 9(a)(4) of this Agreement;
- (2) section 9(a)(5) of this Agreement, to the extent that Enron is prevented from performance by an event of Force Majeure under the Enron Agreement;
- (3) section 9(a)(5) of this Agreement, to the extent caused by a Force Majeure under section 11(a)(4) of the Enron Agreement; or
- (4) section 9(a)(6) of this Agreement;

occurs and continues for a period of 90 days or more, then Atochem may terminate this Agreement upon 14 days' prior written notice to Bonneville and in that event, Atochem may exercise its rights under section 19 of this Agreement; **provided, however**, if the Force Majeure is cured prior to the effective date specified in such notice of termination, then such notice shall not be effective to terminate this Agreement and the right of Atochem to terminate this Agreement based upon such event of Force Majeure shall expire.

(f) In the event that any court or public authority enters an injunction or other order that would prevent Bonneville from selling to Atochem all or any portion of the Firm Energy under this Agreement at the rate specified in this Agreement, then, for the duration of such injunction or order, Bonneville shall offer to sell to Atochem an amount of power equal to the amount of power affected by such injunction or order to be delivered as specified in this Agreement at any rate selected by Atochem if Bonneville may lawfully sell power to a directservice industry under such rate. If such rate includes flexible rate provisions which allow Bonneville to sell power at a price based on market conditions, then, if requested by Atochem, Bonneville shall, if Bonneville has

available energy, sell to Atochem energy at a flexible rate equal to Bonneville's daily surplus firm power price, plus the charges described in sections 5(a)(2), 5(a)(3), and 5(a)(4). If daily surplus firm power is not available, then Bonneville shall purchase energy for sale to Atochem under this Agreement at Bonneville's cost to purchase such energy, plus the charges described in sections 5(a)(1), 5(a)(2), 5(a)(3), 5(a)(4), and the amount Bonneville would have paid to Enron for losses under section 5(b)(3). The purchase option provided by this section 9(f) shall expire when this Agreement is terminated pursuant to section 9(d) or terminated by Atochem pursuant to section 9(e).

Except as provided in the previous sentence, the rights and obligations under this section 9(f) shall be severable from and shall survive any termination of this Agreement that occurs before September 30, 1998.

10. ASSIGNMENT OF AGREEMENT

This Agreement shall inure to the benefit of, and shall be binding upon the respective successors and assigns of the Parties. This Agreement or any interest therein may be transferred or assigned by either Party to another only upon the written consent of the other Party, which shall not be unreasonably withheld, except as specifically provided in this section. The consent of Bonneville is hereby given to: (a) any assignment to a successor in interest of Atochem (without relieving Atochem of its liabilities hereunder) that agrees to perform the obligations of Atochem under this Agreement; and (b) any security assignment or other like financing instrument (without relieving Atochem of its liabilities hereunder) which may be required under terms of any mortgage, trust, security agreement or holder of such instrument of indebtedness made by and between Atochem and any mortgagee, trustee, secured party, subsidiary of Atochem or holder of such instrument of indebtedness, as security for bonds or other indebtedness of Atochem, present or future. Such mortgagee, trustee, secured party, subsidiary, or holder may realize upon such security in foreclosure or other suitable proceedings, and succeed to all right, title, and interests of Atochem.

11. NOTICES

Unless the Agreement requires otherwise, any notice, demand, or request provided for in this Agreement, or served, given, or made in connection with it, shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by telegraph, or by acknowledged delivery, or sent by registered or certified mail, postage prepaid, to the persons specified below:

To Bonneville:

United States Department of Energy
Bonneville Power Administration
Sales and Customer Service
P.O. Box 3621
Portland, OR 97208-3621
Attn: Sydney D. Berwager - SH-700
Senior Customer Account Executive

To Atochem:

Elf Atochem North America, Inc.
6400 NW. Front Avenue
Portland, OR
Attn: A. Gene Spina

with a copy to:

Elf Atochem North America, Inc.
2000 Market St.
Philadelphia, PA 19103-3222
Attn: General Counsel

Any Party may, by written notice to the other Parties, change the designation or address of the person so specified as the one to receive notices pursuant to this Agreement.

12. GOVERNING LAW

This Agreement shall be subject to and governed by Federal law.

13. WAIVERS

- (a) Failure by a Party to exercise any right, remedy, or option hereunder or delay in exercising such right, remedy, or option shall not operate as a waiver by such Party of its right to exercise any such right, remedy, or option prior to the time such right, remedy, or option expires by an express term of this Agreement; nor shall such failure or delay by such Party operate as a waiver of any right, remedy or option that may arise from a subsequent event under the relevant provisions of this Agreement.
- (b) The Parties may agree to waive any provision of this Agreement to address temporary problems or unforeseen circumstances. Any such waiver shall be in writing and shall clearly specify the period of time for which the waiver is in effect. The consent of the other Party to such a waiver shall not be unreasonably withheld. No Party shall claim that the granting of a waiver sets a binding precedent for future waivers, even if similar waivers are granted throughout the term of this Agreement.

14. SEVERABILITY

If any term, covenant, or condition of this Agreement or the application of any such term, covenant, or condition shall be held invalid as to any person, entity, or circumstance by any regulatory body or agency or court of competent jurisdiction, then such term, covenant or condition shall remain in force and effect to the maximum extent permitted by law, and all other terms, covenants, and conditions of this Agreement and their application shall not be affected thereby but shall remain in force and effect unless an agency or court of competent jurisdiction finds that such provision is not severable from all other provisions of this Agreement.

15. DISPUTE RESOLUTION AND ARBITRATION

- (a) All disputes arising under this Agreement are subject to resolution through arbitration which is binding to the maximum extent permissible to both Parties under the laws existing at the time the dispute is resolved. No Party shall be bound on any issue if the other Party is not likewise bound. In lieu of, or prior to, submitting to arbitration, the Parties may agree to an alternative form of dispute resolution such as mediation or nonbinding arbitration.
- (b) Any arbitration of a dispute arising under this Agreement shall be conducted pursuant to the then effective CPR Institute for Dispute Resolution's Non-Administered Arbitration Rules.

16. RELATIONSHIP TO THE ENRON AGREEMENT

- (a) Bonneville shall not execute amendments to the Enron Agreement without the prior written approval of Atochem. Such approval by Atochem shall not be unreasonably withheld.
- (b) Bonneville shall perform all of its obligations under the Enron Agreement, to the extent that the nonperformance of such obligations would adversely affect Atochem.
- (c) If requested by Atochem, Bonneville shall request that Enron establish and maintain a letter of credit in the event of a Material Adverse Change under the Enron Agreement. If Enron fails to establish and maintain such letter of credit, then, at Atochem's request, Bonneville shall terminate the Enron Agreement.
- (d) If during the performance of this Agreement, there is any change in the current ownership of Bonneville by sale, privatization or other disposition or the transfer of ownership:
 - (1) then Atochem may request of Bonneville and Bonneville shall require of Enron that any letter of credit established or maintained by Enron to cure a Material Adverse Change

under the Enron Agreement name Atochem as an additional beneficiary of such letter of credit; and

- (2) if such change is reasonably anticipated to impair Bonneville's ability to perform this Agreement, then Atochem may also request of Bonneville and Bonneville shall establish with Enron and Atochem any reasonable mechanism, by direct transfer, escrow account or otherwise, to assure that any monies payable by Enron to Bonneville under the Enron Agreement will be used first to pay or secure any amounts payable by Bonneville to Atochem under section 5(c) of this Agreement, if any.
- (e) If Enron requests of Bonneville, due to the occurrence of an event described in section 21(d) of the Enron Agreement, that Bonneville require that Atochem name Enron as an additional beneficiary of any letter of credit otherwise required under this Agreement, or that Bonneville, Atochem and Enron establish a mechanism described in section 21(d)(2) of the Enron Agreement to pay or secure the payment by Bonneville to Enron for power delivered under the Enron Agreement, Atochem shall take all reasonable steps to allow Bonneville to accommodate such request.

17. EARLY TERMINATION DUE TO TRIGGERING EVENT

- (a) If a Triggering Event occurs with respect to either Party at any time during the term of his Agreement, the other Party (the "Notifying Party") may upon 2 business days' written notice to the first Party, which notice shall be given no later than 60 days after the discovery of the occurrence of the Triggering Event, establish a date on which this Agreement will terminate (Early Termination Date); **provided**, upon the occurrence of any Triggering Event described in section 2(i)(4), this Agreement shall automatically terminate, without notice, as if an Early Termination Date had been immediately declared. If an Early Termination Date occurs, then the Notifying Party or its assignee shall in good faith calculate its damages in accordance with sections 17(c) or 17(d), as appropriate, resulting from the termination of this Agreement (the "Termination Payment").
- (b) Atochem hereby consents to the assignment by Bonneville to Enron of Bonneville's rights, after Bonneville has provided notice under section 17(a), as a Notifying Party, as specified in this section. In the event that Bonneville assigns such rights to Enron, the Parties agree as follows:
 - (1) Atochem will retain the right to dispute whether a Triggering Event giving rise to a right to terminate occurred without material breach by Bonneville. Any such dispute shall be

subject to arbitration, under the procedures specified in section 15 herein, to which Enron shall be entitled to intervene. The decision of the arbitrator on such dispute shall be binding on Enron and the Parties.

- (2) Any dispute between Atochem and Enron pertaining to the calculation of any Termination Payment will be subject to binding arbitration to be conducted under the procedures specified in section 15 herein.
 - (3) Subject to section 17(b)(1), Atochem will not raise any claim, defense or setoff it may have against Bonneville as a claim, defense, or setoff against Enron.
 - (4) If Enron establishes the right to the Termination Payment specified in the notice provided for by section 17(f), then Atochem will also pay to Enron its attorneys' fees and associated costs, if any, of proving and collecting such Termination Payment.
- (c) If the Notifying Party is Bonneville, then the Termination Payment will be the positive excess, if any, of:
- (1) the payments (discounted to the Early Termination Date at a rate per annum equal to the average yield to maturity of United States Treasury obligations having a comparable maturity date) for the amounts of Firm Energy that Bonneville would have been required to deliver to Atochem during the remaining term had this Agreement not been terminated, less any amounts for which Atochem would be relieved from Take-or-Pay under section 7(d), multiplied by \$16.30 per megawatt-hour; minus
 - (2) the same quantities of equivalent firm energy, delivered in the manner set forth in section 4 had this Agreement not been terminated, multiplied by the relevant market price, discounted in the same manner as set forth in section 17(c)(1), either quoted by a bona fide third party offer or which is reasonably expected to be available in the market under a replacement contract for this Agreement.
- (d) If the Notifying Party is Atochem, then the Termination Payment will be the positive excess, if any, of:
- (1) the amount of Firm Energy that Atochem would have been obligated to purchase during the remaining term had this Agreement not been terminated, at the relevant market price

(discounted to the Early Termination Date at a rate per annum equal to the average yield to maturity of United States Treasury obligations having a comparable maturity date), either quoted by a bona fide third party offer or which is reasonably expected to be available in the market under a replacement contract for this Agreement, minus

- (2) the same quantities of equivalent firm energy, multiplied by \$16.30 per megawatthour, discounted in the same manner as set forth in section 17(d)(1).
- (e) To ascertain the market prices of a replacement contract the Notifying Party may consider, among other valuations, quotations from leading dealers in energy purchase and sale contracts and other bona fide third party offers, all adjusted for the length of the remaining term and any transmission differential.
- (f) The Notifying Party or its assignee shall give the Affected Party written notice of the amount of the Termination Payment, inclusive of a statement showing its determination of the amount thereof. Any dispute regarding the amount of the Termination Payment shall be resolved as provided for in section 15 of this Agreement. Subject to the preceding sentence, the Affected Party shall pay the Termination Payment to the Notifying Party within 10 days after receipt of such notice.
- (g) In the event that Atochem is the Notifying Party and this Agreement is terminated by Atochem, then, as of the effective date of such termination, Bonneville shall at the request of Atochem, deliver replacement energy obtained by Atochem to Atochem's facilities as provided for in section 27(b) of the Block Sale Agreement. Such obligation shall survive termination of this Agreement.

18. OPTION TO TERMINATE DUE TO TERMINATION OF THE ENRON AGREEMENT

- (a) If Bonneville terminates the Enron Agreement in accordance with the terms and conditions of section 18 thereof, and such termination is not caused by the material breach of Bonneville, then Bonneville may, in its sole discretion, if exercised within 14 days of giving Enron notice of termination of the Enron Agreement, and upon 14 days' written notice to Atochem, terminate this Agreement. Upon such termination of this Agreement, the rights and obligations of the Parties shall be as follows:
 - (1) Any obligation relating to performance prior to such termination of this Agreement shall be preserved until satisfied.

- (2) Bonneville's notice of termination to Atochem shall operate:
- (A) to assign to Atochem Bonneville's rights as Notifying Party under section 18 of the Enron Agreement;
 - (B) to assign to Atochem Bonneville's rights under any guarantee of Enron's obligations under the Enron Agreement;
 - (C) subject to section 19, as a complete satisfaction of any obligation Bonneville would otherwise have to Atochem for performance under this Agreement subsequent to termination of this Agreement; and
 - (D) subject to section 19 below, to relieve Atochem of any further obligation to Bonneville for performance subsequent to termination of this Agreement.
- (b) For amounts of Firm Energy sold by Bonneville to Atochem from the date that Bonneville terminated the Enron Agreement until the Atochem Agreement is terminated, if the spot market price of energy exceeds \$16.30 per megawatthour, then Atochem shall reimburse Bonneville for such excess and if the spot market price of energy is less than \$16.30 per megawatthour, then Bonneville shall credit Atochem for such excess.
- (c) Except as otherwise provided for in section 18(a), section 18(a) shall not apply if Enron is the Notifying Party under section 18 of the Enron Agreement.

19. ATOCHEM'S RIGHTS IN THE EVENT OF TERMINATION

In the event that Bonneville terminates this Agreement pursuant to section 17(a) or 18(a); Atochem terminates this Agreement pursuant to section 9(e) or 17(a); or this Agreement terminates pursuant to section 9(d); then, in addition to any other right and option provided for in this Agreement, Atochem shall have the option upon 14 days' notice given within 30 days of the notice of the termination of this Agreement to increase the annual and monthly amounts of Firm Energy under sections 9 and 10 of the Block Sale Agreement by amounts of Firm Energy up to the amounts that Atochem would have been entitled to purchase under this Agreement if this Agreement had not been terminated. Effective on the date of termination of this Agreement, Bonneville shall supply Atochem replacement energy at a marketbased SP-93 or Firm Power Products and Services (FPS-96) rate, until the earlier of 44 days after such effective date of termination of this Agreement or Atochem has arranged with Bonneville or a third party for an alternative energy supply. If any such termination becomes effective prior to October 1, 1996, then

Atochem shall have the additional option to purchase from Bonneville, prior to October 1, 1996, and Bonneville shall deliver, the amounts of energy that would otherwise have been purchased under this Agreement from Bonneville on a Take-or-Pay basis at the Industrial Firm Power (IP-95) rate. The rights and obligations of this section 19 shall survive termination of this Agreement.

20. SIGNATURE CLAUSE

The signatories hereto represent that they have been duly authorized to enter into this Agreement on behalf of the Party for whom they sign.

IN WITNESS WHEREOF, the Parties have executed this Agreement.

UNITED STATES OF AMERICA
Department of Energy
Bonneville Power Administration

By /S/ SYDNEY D. BERWAGER
Senior Customer Account Executive

Name Sydney D. Berwager
(Print/Type)

Date December 18, 1995

ELF ATOCHEM NORTH
AMERICA, INC.

By /S/ F. H. LAUCHERT

Name F. H. Lauchert
(Print/Type)

Title Group President - Industrial Chemicals

Date December 15, 1995

(MCPLAN-MPSD-W:\MPSD\ACT95113.DOC)

GENERAL CONTRACT PROVISIONS

Index to Sections

Section		Page
1.	Definitions	1
2.	Metering	2
	(a) Metering Costs	2
	(b) Metering Requirements at Company Facilities	2
	(c) Metering Standards	3
	(d) Data Reporting Requirements	4
	(e) Metering Tests	5
3.	Facilities	5
	(a) Ownership of Facilities	5
	(b) Access to Facilities	5
	(c) General Environmental Provisions	6
4.	Deliveries	6
	(a) Character of Service	6
	(b) Voltage Levels	6
	(c) Balancing Phase Demands	7
	(d) Harmonic Control	7
	(e) Voltage Flicker	8
	(f) Maintenance Outages	8
5.	Statutory Provisions	8

1. DEFINITIONS

- (a) "Federal System" or "Federal System Facilities" means the facilities of the Federal Columbia River Power System (FCRPS). For purposes of this Agreement, the FCRPS includes:
 - (1) the Federal Government's generating facilities in the Pacific Northwest for which BPA is the designated marketing agent;
 - (2) the Federal Government's facilities under BPA's jurisdiction;
 - (3) any other facilities which BPA has a right to use by contract, license, or treaty; and
 - (4) any other facilities from which BPA receives generating capability.
- (b) "Prudent Electric Utility Practice" or "Prudent Utility Practice" means, at any particular time, the generally accepted practices, methods, and acts in the electric utility industry that would achieve the

desired result. If there are no such practices, methods, and acts, Prudent Electric Utility Practice means the practices, methods, and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result consistent with reliability and safety considerations.

2. METERING

(a) Metering Costs

The Parties shall bear the costs of metering as provided in sections 2(a)(1) and 2(a)(2), except as otherwise specifically provided in section 2(b).

(1) Metering of Existing Facilities

BPA shall bear the costs of any meter replacement or new meter installation at any Company facility that is used for delivery of Federal power and which is an existing facility on the Effective Date of this Agreement.

(2) Metering of New Company Facilities

The Company shall pay all costs associated with installing BPA-approved metering at the following types of locations established by the Company after the Effective Date of this Agreement:

- (A) all points of generation integration;
- (B) all automatic generation control (AGC) interchange points; and
- (C) all other points of electrical interconnection, including convenience points of delivery.

(b) Metering Requirements at Company Facilities

(1) Points of Automatic Generation Control Interchange

The following metering is required for each AGC interchange point (a point on a Control Area boundary);

- (A) telemetering of the kilowatts (kW) at such point; and
- (B) hourly metering capable of providing summaries, at the end of each clockhour, of the kilowatthours (kWh) and kilovoltampere reactive hours (kVARh) (lagging and leading) exchanged during the previous hour.

(2) Other Electrical Connections

All electrical interconnections other than AGC interchange points and points of generation integration shall be metered on an hourly basis for both kW/kWh and kilovoltamperes reactive (kVAr)/kVARh (lagging and leading) quantities. BPA shall pay for any upgrades or replacement of required meters on facilities existing on the Effective Date; the Company shall pay to meet BPA's metering requirements for all new facilities.

(3) Eccentric Loads

At its own expense, the Company shall separately meter each of its eccentric loads, which are large loads that have an extremely steep ramp rate (more specifically defined in BPA's Billing Policy or product catalog). Eccentric loads shall be metered using telemetering equipment or the equivalent.

(c) **Metering Standards**

- (1) All meters at new installations where the interconnections are "normally closed" shall be capable of providing data electronically unless BPA otherwise agrees.
- (2) BPA will determine whether hourly data or meter slips are required for those interconnections that are normally operated in the "open" position.
- (3) All meters providing data electronically shall be compatible with BPA's electronic metering systems.
- (4) As of the Effective Date, BPA principally uses a telemetering system, a kWh system, and BPA's Revenue Metering System (RMS) for metering. There are acceptable alternatives to each of these specific systems. The Company shall consult with BPA to ensure compatibility of any Company meter with BPA's then-current metering system.
- (5) The Company's meters shall meet BPA's accuracy standards as described in the BPA's Billing Policy.

- (6) The Company shall coordinate with BPA to determine BPA's information and communication needs when designing future meter installations.
- (7) BPA-installed metering shall be used exclusively for BPA purposes unless otherwise agreed.
- (8) If the required metering capability is not installed by the Effective Date and until its installation, the Parties shall calculate the hourly quantities using a default methodology specified in the Billing Policy, unless a different methodology is specified in the Points of Delivery Exhibit.

(d) **Data Reporting Requirements**

- (1) Telemetered data shall be furnished to BPA continuously on a real-time basis via 10-30 hertz telemetry, BPA's Supervisory Control and Data Acquisition system, the Interutility Data Exchange system, or other data collection method as determined by BPA.
- (2) Hourly metered data for all points of generation integration and points of AGC interchange shall be furnished to BPA at the end of each clock hour. Data shall be reported through the kWh metering system or an approved alternative.
- (3) Hourly metered data for:
 - (A) points of delivery (excluding points of AGC interchange); and
 - (B) eccentric loadsshall be furnished to BPA at least once a month, at the end of the Company's billing cycle.
- (4) The Company shall submit a meter slip to BPA for all metering points which do not currently have:
 - (A) metering capable of providing hourly kWh and kVARh quantities; or
 - (B) electronic communications for such metered amounts (through the RMS or equivalent).

(e) **Metering Tests**

Each Party shall inspect and test each of its meters used to measure power flowing between the Parties:

- (1) at least once every 2 years; and
- (2) upon the request of the other Party.

Each Party shall give reasonable notice to the other stating when a test or inspection will occur. The other Party has the right to have one or more representatives present at such test or inspection.

3. FACILITIES

(a) **Ownership of Facilities**

- (1) Except as otherwise expressly provided, equipment or salvable facilities owned by one Party and installed on the property of the other shall remain the property of the owner.
- (2) Each Party shall identify all movable equipment and other salvable facilities which it installed on the other's property by permanently affixing suitable markers plainly identifying the owner. Within a reasonable time after such installation, and again after any subsequent modification of such installation, representatives of the Parties shall jointly prepare an itemized list of said movable equipment and salvable facilities.

(b) **Access to Facilities**

Whenever one Party has facilities or equipment located on, or planned to be located on, the other's property, the property owner shall give the facility or equipment owner permission to access such property for any reasonable purpose related to such facilities or equipment, including removal. The property owner shall also provide accurate and up-to-date information on those facilities and equipment owned by the property owner, to the extent needed by the other Party to accomplish its purpose.

Each Party shall have the right, at any reasonable time, to enter the other's property to read meters and inspect the other Party's electric installation. The inspecting Party shall observe written instructions and posted rules and such other necessary instructions or inspection standards to which the