

POWER SALES AGREEMENT
executed by the
BONNEVILLE POWER ADMINISTRATION
and
ALCOA INC.

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This POWER SALES AGREEMENT (Agreement) is executed by the UNITED STATES OF AMERICA, Department of Energy, acting by and through the BONNEVILLE POWER ADMINISTRATION (BPA), and Alcoa Inc. (Alcoa), hereinafter individually referred to as “Party” and collectively referred to as the “Parties.” Alcoa is a corporation organized under the laws of the State of Pennsylvania, and registered therein as entity number 10514, taxpayer identification number _____.

RECITALS

BPA is authorized to sell power to Alcoa, a direct service industrial customer, pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. §§ 839 et seq.

In *Pacific Northwest Generating Cooperative v. Department of Energy*, 550 F.3d 846 (2008)(PNGC I) the Ninth Circuit invalidated monetary benefits provisions of power sales contracts between BPA and its aluminum company direct service industrial customers (DSIs), but held that BPA may make sales to DSIs at the Industrial Firm Power Rate (IP rate). This Agreement addresses the 2-year period remaining under those power sales contracts and potentially a subsequent 5-year period. Under both time periods power sales will be made to Alcoa at the then applicable Industrial Firm Power (IP) rate.

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In light of PNGC I BPA and Alcoa entered into an amendment to the Block Sale Agreement, which was likewise challenged and in *Pacific Northwest Generating Cooperative v. Department of Energy*, Case No. 09-70228 et al. (August 28, 2009)(PNGC II), the Ninth Circuit invalidated the amendment. BPA believes that a portion of the Court’s opinion in PNGC II (the “Opinion”) implies that BPA must find that BPA derives benefits equivalent to the cost of providing Alcoa with electric power service (“Equivalent Benefits”). Alcoa and BPA believe that the Equivalent Benefits standard is an erroneous standard and may seek rehearing of the Court’s Opinion concerning this and other elements of the Opinion. Nevertheless, BPA has determined that the implied Equivalent Benefits test is met for the Initial Period of this Agreement. This Agreement also anticipates: (a) potential extension of the Initial Period of this Agreement in the event BPA determines that it derives Equivalent Benefits by providing Alcoa electric power service under this Agreement for the period of such extension and that such service can be provided at a cost to BPA at or

below the applicable Cost Caps, and (b) a Second Period in the event BPA determines that (i) a Court holds that the Equivalent Benefits standard does not apply to this Agreement, (ii) service for the Second Period can be provided consistent with the Court's rulings and (iii) service for the Second Period can be provided at a cost to BPA at or below the applicable Cost Caps.

Concomitantly with the execution of this Agreement, BPA has issued a record of decision addressing comments regarding this Agreement submitted by BPA customers and other interested parties, and such record of decision explains BPA's rationale for its decision to enter into this Agreement.

BPA has functionally separated its organization in order to separate the administration and decision-making activities of BPA's power and transmission functions. References in this Agreement to Power Services or Transmission Services are solely for the purpose of clarifying which BPA function is responsible for administrative activities that are jointly performed.

The Parties agree:

1. TERM

This Agreement takes effect on the date signed by the Parties and expires or terminates on a date calculated pursuant to the terms of this Agreement. Firm Power made available by PS for delivery to the Intalco Plant shall commence on December 1, 2009.

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All liabilities incurred by each Party hereunder shall be preserved until satisfied, notwithstanding the expiration or termination of this Agreement.

2. DEFINITIONS

Capitalized terms below shall have the meaning stated. Capitalized terms that are not listed below are either defined within the section or exhibit in which the term is used or, if not so defined, shall have the meaning stated in BPA's applicable Wholesale Power Rate Schedules, including the General Rate Schedule Provisions ("GRSPs"). If a term is not defined in any of the named sources, then the term shall be given its normal and customary meaning, with due regard to generally accepted business practices, including the status of the undefined term as a generally recognized term of art.

- 2.1 "Alcoa Load" means that Alcoa hourly load at the Intalco Plant served under this Agreement.
- 2.2 "Balancing Authority" means the responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area, and supports interconnection frequency in real time.
- 2.3 "Balancing Authority Area" means the collection of generation, transmission, and loads within the metered boundaries of the Balancing Authority.

2.4 “Business Days” means every Monday through Friday except for Federal holidays.

2.5 “Cost Cap” shall have the meaning as defined in Exhibit B.

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2.6 “Demand Entitlement” shall have the meaning as defined in section 1.2 of Exhibit A.

2.7 “Diurnal” means the division of hours within a month between Heavy Load Hours (HLH) and Light Load Hours (LLH).

2.8 “Equivalent Benefits” means benefits, as evaluated and determined by BPA in a record of decision, that are forecasted to accrue to BPA as a result of providing Firm Power service to Alcoa hereunder, and that equal or exceed the forecasted cost of providing such service including, without limitation, receipt of revenues from the IP rate for sales to DSIs, reserves and other operational benefits, the benefits of Alcoa’s waiver found in section 22.2 of this Agreement and the value of Alcoa’s covenant in section 24.2 of this Agreement.

2.9 “Firm Power” means the amount(s) of electric power that PS will make available at the IP rate to Alcoa under this Agreement in equal hourly amounts for every hour of the Fiscal Year.

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2.10 “Fiscal Year” or “FY” means the period that begins each October 1 and which ends the following September 30.

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2.11 “Forecasted Net Cost” shall have the meaning as defined in Exhibit B.

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2.12 “Intalco Plant” means the Alcoa aluminum smelting facilities served from BPA’s Intalco Substation, where the 13.8 kilovolt facilities of BPA and Alcoa are connected.

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2.13 “Initial Period” means the period December 1, 2009, through June 30, 2011, as such period may be extended pursuant to section 5.1.1 below.

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2.14 “IP rate” means the Industrial Firm Power Rate contained in BPA’s 2010 Wholesale Power Rate Schedules, and each successor.

2.15 “Issue Date” shall have the meaning described in section 13.1.

2.16 “Ninth Circuit” or “Court” means the United States Court of Appeals for the Ninth Circuit.

Deleted: 13 . “Net Firm Power” shall have the meaning described in Exhibit F

2.17 “Northwest Power Act” means the Pacific Northwest Electric Power Planning and Conservation Act of 1980, 16 U.S.C. §§ 839 et seq., Public Law No. 96-501, as amended.

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2.18 “Points of Metering” means the interconnection points between BPA, Alcoa and other control areas, as applicable. Electric power amounts are established at these points based on metered amounts or scheduled amounts, as appropriate. Deleted: 15

2.19 “Power Reserves” shall have the meaning described in Exhibit F. Deleted: 16

2.20 “Power Services” or “PS” means the organization, or its successor organization, within BPA that is responsible for the management and sale of Federal power. Deleted: 17

2.21 “Primary Points of Receipt” shall have the meaning described in section 11.1.1. Deleted: 18

2.22 “Prior Agreement” means Contract No. 06PB-11744 between BPA and Alcoa, as amended. Deleted: 19

2.23 “Region” or “Regional” means the Pacific Northwest as defined in the Northwest Power Act, 16 U.S.C. § 839a(14). Deleted: 20

2.24 “Second Period” means a consecutive five-year period that only occurs, and if it occurs date determined by BPA, after the date of any determination by the Ninth Circuit as described in section 6.1.1, but no later than 12 months after the Ninth Circuit’s determination. Deleted: 21

2.25 “Surplus Firm Power” means any electric power that BPA determines is in excess of its obligations incurred under sections 5(b), 5(c), and 5(d) of the Northwest Power Act.

2.26 “Transition Period” shall have the meaning described in section 6.1.

2.27 “Transmission Services” or “TS” means the organization or its successor organization, within BPA that is responsible for the management and sale of transmission service on the Federal Columbia River Transmission System (FCRTS).

2.28 “Wheel Turning Load” shall have the meaning described in the 2010 GRSP and for the purpose of the Agreement, shall equal 6 aMW. Deleted: 22

3. APPLICABLE RATES

Sales by BPA to Alcoa under this Agreement shall be made at the IP rate in effect at the time of such sales, and are subject to all applicable GRSPs. Deleted: Industrial Firm Power rate (the “

3.1 Industrial Firm Power Rate

Alcoa shall purchase Firm Power provided by BPA under this Agreement at the applicable IP rate for the rate period, as established through the procedures specified in section 7(i) of the Northwest Power Act (16 U.S.C § 839e(i)), or its successor, including all adjustments and charges developed in accordance with all applicable statutory ratemaking directives. Deleted: ”) Deleted:

Alcoa acknowledges that BPA has not agreed to propose that the IP rate be established at any particular level, or in any manner other than as specified by statute, for any rate period included within the term of this Agreement, and that, while it reserves all rights with respect to challenging rates proposed or established by BPA, Alcoa bears any risks associated with the IP rate level established each rate period by BPA pursuant to the above referenced rate setting procedures.

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3.2 Additional Charges

Alcoa is subject to any applicable additional charges, including penalty charges (e.g., the Unauthorized Increase Charge), established in BPA's Wholesale Power Rate Schedules and associated GRSPs.

4. PURCHASE AND SALE OF FIRM POWER

4.1 Firm Power

During the Initial Period and, as provided herein, any Transition Period or Second Period, BPA shall make available Firm Power in amounts specified herein and Alcoa shall purchase such Firm Power unless:

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4.1.1 BPA has determined pursuant to Exhibit B that the cost to BPA to serve the Alcoa Load with Firm Power for the Second Period will exceed the Cost Caps identified in Exhibit B;

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4.1.2 This Agreement has terminated; or

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4.1.3 Alcoa has failed to operate the Intalco Plant at a level equal to or greater than 160 aMW for a least one complete Fiscal Year during the period October 1, 2006, through September 30, 2009.

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4.2 No Resale By Alcoa

All purchases of Firm Power by Alcoa under this Agreement shall be used exclusively to serve the Alcoa Load.

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4.3 Termination Upon Court Opinion or Other Ruling

Notwithstanding anything in this Agreement to the contrary, in the event that the Ninth Circuit issues an opinion or other ruling that holds, or that otherwise renders, this Agreement unlawful, or that otherwise prevents BPA from performing its obligations hereunder, then, in order to permit Alcoa to achieve an orderly shutdown of its facilities, and unless the Court mandates a shorter period, this Agreement shall terminate upon six months written notice by BPA to Alcoa

4.4 Reevaluation Upon Court Opinion or Other Ruling

In the event that the Ninth Circuit issues an opinion or other ruling that modifies the standard for Equivalent Benefits used in this Agreement or finds that the standard should not apply, Alcoa and BPA shall confer concerning the effects of such modified standard within 30 days of such

opinion or other ruling, and thereafter BPA shall determine how to proceed under this Agreement in light of the Court's modification.

5. **PURCHASE AND SALE OF FIRM POWER FOR THE INITIAL PERIOD**

5.1 **Firm Power Sale by BPA for Initial Period**

During the period that begins on December 1, 2009, and continues through June 30, 2011, ("Initial Period") BPA shall sell and Alcoa shall purchase 285 aMW of Firm Power. Such sale shall not be subject to any Cost Cap; provided, however, that if Alcoa requests that BPA increase such amount to 320 aMW pursuant to section 5.2 below, such request will be granted only if BPA determines it can serve the entire 320 aMW at or below the applicable Cost Caps in Exhibit B, and achieve Equivalent Benefits.

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5.1.1 Upon written request by Alcoa, BPA will evaluate extending the Initial Period by no less than three months and no more than one year ("Extended Initial Period"), and will so extend the Initial Period for the duration requested by Alcoa if BPA determines (i) that it will achieve Equivalent Benefits from such Firm Power sales during such Extended Initial Period, and (ii) that the cost to serve the Alcoa Load will not exceed the applicable Cost Caps in Exhibit B during such Extended Initial Period. BPA's determination regarding Equivalent Benefits and the Cost Caps shall be conclusive and binding on Alcoa.

5.1.2 Notwithstanding anything to the contrary in section 5.1.1, in the event that BPA terminates this Agreement pursuant to section 6.2 within any Extended Initial Period, the effective date of such termination shall be no sooner than nine months from the date that BPA provides notice to Alcoa of such termination.

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5.2 **Increase from 285 aMW to 320 aMW**

Alcoa may, upon written notice to BPA, request that the amount of Firm Power be increased from 285 aMW to 320 aMW for the balance of the Initial Period or Extended Initial Period. Alcoa's notice shall include a schedule, by month, of Alcoa's proposed operating levels to achieve such Firm Power increase. BPA will increase Firm Power amounts to 320 aMW if BPA determines (i) that it will achieve Equivalent Benefits from such Firm Power sales during such period, and (ii) that the cost to serve the Alcoa Load with 320 aMW will not exceed the applicable Cost Caps in Exhibit B during such period. BPA's determinations regarding Equivalent Benefits and the Cost Caps shall be conclusive and binding on Alcoa.

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BPA shall provide Alcoa with written notice of its determination, including the basis for such determination, within five Business Days following the receipt of such notice. Such increase, if accepted by BPA, shall be implemented on a mutually agreed schedule.

5.3 Termination

In the event Alcoa does not request an extension of the Initial Period pursuant to section 5.1.1, or Alcoa does request an extension but BPA determines not to extend the Initial Period, and in the event there is no Transition Period, this Agreement terminates pursuant to section 4.3.

6. PURCHASE AND SALE OF FIRM POWER DURING THE SECOND PERIOD

During the Second Period, if any, BPA shall sell to Alcoa and Alcoa shall purchase 320 aMW of Firm Power for a period of five years. The Second Period, if any, shall commence following expiration of the Initial Period or Extended Initial Period as described in section 5, and any Transition Period, as described in this section 6.

6.1 Transition Period

6.1.1 Following execution of this Agreement, if the Ninth Circuit issues an opinion or other ruling holding, or that BPA determines can reasonably be interpreted to mean, that the Equivalent Benefits standard does not apply to sales under this Agreement, then BPA shall have up to one year from the date such opinion or other ruling is issued ("Transition Period") to determine whether (i) service to Alcoa Load under this Agreement is otherwise consistent with the Court's opinions and other rulings with respect to service to direct service industrial customers, and (ii) that the cost to serve the Alcoa Load with 320 aMW will not exceed the applicable Cost Caps in Exhibit B during the Second Period. BPA's determination regarding the Cost Caps shall be conclusive and binding on Alcoa.

6.1.2 If such Transition Period, or any part thereof, occurs after the Initial Period or Extended Initial Period, then BPA will sell to Alcoa and Alcoa shall purchase pursuant to this Agreement and for the duration of such Transition Period (or any part thereof occurring after the Initial Period or Extended Initial Period) Firm Power equal to 320 aMW, but only in the event BPA determines (i) that the cost to serve the Alcoa Load with 320 aMW will not exceed the applicable Cost Caps in Exhibit B during the Transition Period, and (ii) that such sale is otherwise consistent with the Court's opinions and other rulings with respect to service to direct service industrial customers. BPA's determination regarding the Cost Caps shall be conclusive and binding on Alcoa

6.2 Termination

6.2.1 If BPA determines it can meet the standard in section 6.1.1(i), but pursuant to Exhibit B, BPA determines that the cost to serve the Alcoa Load with 320 aMW of Firm Power for the entire Second Period will exceed the applicable Cost Caps in Exhibit B, then BPA may give notice of termination of this Agreement. In order to permit Alcoa to achieve an orderly shutdown of its facilities, the termination shall be effective no sooner than nine months from the date that BPA provides

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- ¶ 6.1 Firm Power Sale by BPA for FY 2012 through FY 2016 ¶
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notice to Alcoa of such termination. Such notice shall include the basis for BPA determination, and such determination shall be conclusive and binding on Alcoa.

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6.2.2 In the event BPA determines that it cannot meet the standard in section 6.1.1(i), then, in order to permit Alcoa to achieve an orderly shutdown of its facilities, and unless the Court mandates a shorter period, this Agreement shall terminate upon six months written notice by BPA to Alcoa.

7. COST CAPS AND OTHER LIMITATIONS

7.1 Cost Caps

The Cost Caps specified in Exhibit B of this Agreement represent the maximum cost BPA will incur to support sales to Alcoa, including any costs of carbon taxes or charges, greenhouse gas mitigation costs, or other similar environmental or regulatory costs allocated by BPA, pursuant to Exhibit B.

7.2 Other Limitations

Alcoa understands and agrees that BPA will not make a plant specific acquisition from a coal-fired resource, and that BPA will not acquire power from a supplier that is unwilling to absorb all of the regulatory and environmental costs referred to in section 7.1 above, that are imposed on the supplier after the date the acquisition contract is entered into.

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8. EMPLOYMENT LEVELS

During the Initial, Transition and Second Periods, except during any termination period in which Alcoa is not operating, Alcoa shall employ at least the number of full-time equivalent (FTE) employees specified in Exhibit G. "FTE" shall mean full-time annual equivalent employment (including part-time and partial year) for regular employees of Alcoa at the Intalco Plant and contractor employees working within Whatcom County, Washington during a calendar month.

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Alcoa shall notify BPA in writing in the event that, during any calendar month, Average FTE, as defined in Exhibit G, levels are reduced by more than one percent below the applicable level specified in Exhibit G. Such notice shall be provided within five Business Days following such reduction. Such notice shall specify the date by which Alcoa anticipates Average FTE levels will equal or exceed the applicable level specified in Exhibit G; provided, however, that this Agreement will be subject to termination by BPA in the event Alcoa fails to provide BPA with a written plan and to comply with such plan for meeting the applicable Average FTE levels specified in Exhibit G. Such plan shall demonstrate that Alcoa shall meet Average FTE requirements within 90 days following the end of the month during which such Average FTE levels fell below the 1 percent threshold. In order to permit BPA to determine whether Alcoa is meeting its plan to meet FTE obligations, Alcoa shall provide monthly reports to BPA demonstrating its FTE by month and showing that its Average FTE levels meet the requirements of this section 8 within 15 days following the end of the month for which it is reporting. In the event that

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Alcoa fails to comply with its plan for reaching Average FTE levels, BPA may provide notice of termination within 30 days following the monthly notice provided in this section 8 and the effective date of termination shall be 90 days following the date such notice is received by Alcoa.

9. CURTAILMENT

9.1 Notice of Curtailment

Alcoa may, upon written notice to BPA, curtail all or a portion of the Alcoa Load, subject to the limitations specified in section 9.2 below. Any such notice shall specify the amount of Alcoa Load to be curtailed, the duration of such curtailment, and the effective date that such curtailment shall commence; provided however, that such effective date shall be no earlier than 90 days following the date that BPA receives such notice. The period of curtailment shall be for consecutive months. Any such notice, once received, shall not be changed by Alcoa without BPA's written consent.

9.2 Number of Curtailments Allowed and Cumulative Duration of Curtailments

Alcoa shall not provide BPA with more than two written notices to curtail during the term of this Agreement, and the cumulative duration of any such curtailment(s) shall not exceed 24 months; provided, however, the cumulative duration of such curtailment(s) within the Second Period shall not exceed 18 months in the aggregate. Alcoa shall maintain the applicable employment level specified in Exhibit G during any curtailment, and will maintain at least the pre-curtailment ratio between its salaried and non-salaried FTEs.

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9.3 No Compensation to Either Party During Curtailment

During any period of curtailment, Alcoa shall not incur any take-or-pay obligation for the amount curtailed, and BPA shall have no obligation to compensate Alcoa in any manner for the amount curtailed.

9.4 No Purchases from Third Parties During Curtailment

During any period of curtailment, Alcoa shall not make any market purchases from third party suppliers to replace all or any portion of the amount curtailed.

9.5 No Curtailment Following Notice of Termination

Alcoa shall not curtail pursuant to this section 9 following a notice of termination pursuant to section 21.1.1 below.

9.6 Power Reserves

Alcoa shall provide Supplemental Contingency Reserves in a manner consistent with the Minimum DSI Operating Reserve - Supplemental section of the 2010 General Rate Schedule Provisions and as established in Exhibit F.

9.7 Additional or Alternative Arrangements for Power Reserves

Nothing in this Agreement shall preclude BPA and Alcoa from entering into arrangements, either by amendment to this Agreement or through a separate agreement for Alcoa to provide BPA with additional reserves or restriction rights for purposes of providing reserves for BPA firm power loads within the region.

10. SCHEDULING

Alcoa shall schedule power in accordance with Exhibit E.

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10.1 Scheduling¶

11. DELIVERY

11.1 Definitions

11.1.1 “Primary Points of Receipt” means the points on the Pacific Northwest transmission system where Firm Power is forecasted to be made available by Power Services to Alcoa for purposes of obtaining a long-term firm transmission contract.

11.1.2 “Scheduling Points of Receipt” means the points on the Pacific Northwest transmission system where Firm Power is made available by Power Services to Alcoa for purposes of transmission scheduling.

11.1.3 “Point of Delivery” means the point described in Exhibit E to which Alcoa delivers power.

11.2 Transmission Service

11.2.1 Alcoa is responsible for making arrangement for, and payment of, delivery of power from the Scheduling Points of Receipt, including all transmission and ancillary service costs.

11.2.2 Alcoa shall obtain prior BPA approval for, and shall provide at least 60 days’ notice to Power Services prior to changing Balancing Authority Areas.

11.2.3 At Alcoa’s request, Power Services shall provide Alcoa with Primary Points of Receipt and other information needed to enable Alcoa to obtain long-term firm transmission for delivery of power sold under this Agreement. If required by Transmission Services for purposes of transmission scheduling, then Power Services shall provide Alcoa with Scheduling Points of Receipt. Power Services has the right to provide power to Alcoa at Scheduling Points of Receipt that are different than the Primary Points of Receipt. If BPA does provide power to Alcoa at Scheduling Points of Receipt that are different than the Primary Points of Receipt, then BPA shall reimburse Alcoa for any incremental, direct, non-administrative costs incurred by Alcoa to comply with delivering Firm Power from such a Scheduling Point of

Receipt to Alcoa's Intalco Plant if the following conditions, as outlined in 11.2.3.1 or 11.2.3.2 below, as applicable, have been met:

- 11.2.3.1 If Alcoa has long-term Point to Point (PTP) transmission service (as defined in BPA's Open Access Transmission Tariff) for delivery of Firm Power to its load:
 - 11.2.3.1.1 Alcoa has requested long-term firm transmission service to deliver its Firm Power using the Primary Points of Receipt and other information provided by Power Services; and
 - 11.2.3.1.2 Alcoa has submitted a request to redirect its long-term firm PTP transmission service to deliver Firm Power from the Scheduling Point of Receipt on a firm basis, but that request was not granted; and
 - 11.2.3.1.3 Alcoa's transmission schedule was curtailed due to non-firm status under PTP transmission service or Alcoa can provide proof of the reimbursable costs incurred to replace the curtailed schedule.
- 11.2.3.2 If Alcoa has long-term Network Integration Transmission Service (as defined in BPA's Open Access Transmission Tariff) for delivery of Firm Power to its load:
 - 11.2.3.2.1 Alcoa has requested long-term firm transmission service to deliver its Firm Power using the Primary Points of Receipt and other information provided by Power Services; and
 - 11.2.3.2.2 Alcoa's transmission schedule was curtailed due to non-firm status under its secondary service status and Alcoa can provide proof of the reimbursable costs incurred to replace the curtailed schedule.
- 11.2.3.3 In the event power cannot be scheduled from a BPA Scheduling Point of Receipt (other than a Primary Point of Receipt) then Alcoa may request and, consistent with BPA's standard practices to achieve efficient system operation and reliability, BPA will move the Scheduling Point of Receipt to a point on the FCRTS where energy can be made available and scheduled to Alcoa's load ("Alternative Scheduling Point of Receipt"), if such a point is available and providing the power from that Alternative Scheduling Point of Receipt

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would not cause BPA to violate any type of non-power constraint.

11.3 Liability for Delivery

Alcoa waives any claims against BPA arising under this Agreement for non-delivery of power to any points beyond the applicable Scheduling Points of Receipt, except for reimbursement of costs as described in section 11.2.3. BPA shall not be liable under this Agreement for any third-party claims related to the delivery of power after it leaves the Scheduling Points of Receipt. Neither Party shall be liable under this Agreement to the other Party for damage that results from any sudden, unexpected, changed, or abnormal electrical condition occurring in or on any electric system, regardless of ownership.

11.4 Real Power Losses

BPA is responsible for the real power losses necessary to deliver Firm Power across the Federal Columbia River Transmission System to Alcoa's POD(s) listed in Exhibit D.

12. METERING

Alcoa's purchase obligations in sections 5 and 6 are not dependant on amounts scheduled and do not require retail load meters for billing and payment.

13. BILLING AND PAYMENT

13.1 Billing

BPA shall bill Alcoa monthly for all products and services provided during the preceding month(s). BPA may send Alcoa an estimated bill followed by a final bill. The Issue Date is the date BPA electronically sends the bill to Alcoa. If electronic transmittal of the entire bill is not practical, BPA shall transmit a summary electronically, and send the entire bill by United States mail.

13.2 Payment

Alcoa shall pay all bills electronically in accordance with instructions on the bill. Payment of all bills, whether estimated or final, must be received by the 20th day after the Issue Date of the bill (Due Date). If the 20th day is a Saturday, Sunday, or federal holiday, then the Due Date is the next Business Day.

If Alcoa has made payment on an estimated bill then:

13.2.1 if the amount of the final bill exceeds the amount of the estimated bill, then Alcoa shall pay BPA the difference between the estimated bill and final bill by the final bill's Due Date; or

13.2.2 if the amount of the final bill is less than the amount of the estimated bill, BPA shall pay Alcoa the difference between the estimated bill and final bill by the 20th day after the final bill's Issue Date. If the 20th day

is a Saturday, Sunday, or federal holiday, BPA shall pay the difference by the next Business Day.

13.3 Late Payments

After the Due Date, a late payment charge, equal to the higher of:

13.3.1, the Prime Rate (as reported in the Wall Street Journal or successor publication in the first issue published during the month in which payment was due) plus 4 percent, divided by 365; or

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13.3.2, the Prime Rate times 1.5, divided by 365;

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shall be applied each day to any unpaid balance.

13.4 Termination

If Alcoa has not paid its bill in full by the Due Date, it shall have 45 days to cure its nonpayment by making payment in full. If Alcoa does not provide payment within three Business Days after receipt of an additional written notice from BPA, and BPA determines in its sole discretion that Alcoa is unable to make the payments owed, then BPA may terminate this Agreement. Written notices sent under this section must comply with section 16 Notices and Contact Information.

13.5 Disputed Bills

13.5.1 If Alcoa disputes any portion of a charge or credit on Alcoa's estimated or final bills, Alcoa shall provide written notice to BPA with a copy of the bill noting the disputed amounts. Notwithstanding whether any portion of the bill is in dispute, Alcoa shall pay the entire bill by the Due Date. This section 13.5.1 does not allow Alcoa to challenge the validity of any BPA rate.

13.5.2 Unpaid amounts on a bill (including both disputed and undisputed amounts) are subject to the late payment charges provided above. Notice of a disputed charge on a bill does not constitute BPA's agreement that a valid claim under contract law has been stated.

13.5.3 If the Parties agree, or if after a final determination of a dispute pursuant to section 18, Alcoa is entitled to a refund of any portion of the disputed amount, then BPA shall make such refund with simple interest computed from the date of receipt of the disputed payment to the date the refund is made. The daily interest rate shall equal the Prime Rate (as reported in the Wall Street Journal or successor publication in the first issue published during the month in which payment was due) divided by 365.

14. INFORMATION EXCHANGE AND CONFIDENTIALITY

14.1 General Requirements

Upon request, each Party shall provide the other Party with any information that is necessary to administer this Agreement, and to forecast Alcoa Load, forecast BPA system load, comply with NERC reliability standards, prepare bills, resolve billing disputes, and otherwise implement this Agreement. For example, this obligation includes transmission and power scheduling information and load and resource metering information (such as one-line diagrams, metering diagrams, loss factors, etc.). Information requested under this section 14.1 shall be provided in a timely manner.

14.2 Reports

Alcoa shall notify BPA of public sources from which Alcoa's annual financial reports and any statements by its authorized officers are readily available and BPA will secure such reports and statements for its use. In the event Alcoa's annual financial reports and statements by its authorized officers become unavailable from public sources Alcoa shall provide such reports upon request by BPA.

14.3 Meter and Billing Data

Alcoa consents to allow Power Services to receive Alcoa's meter data and invoices from Transmission Services, BPA's metering function, or BPA's billing function.

14.4 Confidentiality

Before Alcoa provides information to BPA that Alcoa deems to be confidential commercial or financial information, Alcoa shall clearly designate such information as confidential. BPA shall notify Alcoa as soon as practicable, but in any case no later than as provided by applicable law or regulation, of any request received under the Freedom of Information Act (FOIA) (5 U.S.C. §§ 552 et seq.), or under any other federal law or court or administrative order, for any information designated as confidential by Alcoa. BPA shall only release such confidential information consistent with FOIA, or if required by any other federal law or court or administrative order. BPA shall limit the use and dissemination of such confidential information within BPA to employees who need it for purposes of administering this Agreement.

15. CONSERVATION AND ENVIRONMENTAL ATTRIBUTES

15.1 Conservation

Alcoa shall verify and report all cost-effective (as defined by section 3(4) of the Northwest Power Act) non-BPA-funded conservation measures and projects savings achieved by Alcoa through the Regional Technical Forum's Planning, Tracking and Reporting System or its successor tool. Verification protocols of conservation measures and projects, reporting timelines and documentation requirements shall comply with BPA's Energy Efficiency Implementation Manual or its successor.

15.2 Renewable Energy Certificates and Carbon Credit Treatment

15.2.1 "Carbon Credit" means an Environmental Attribute consisting of greenhouse gas emission credits, certificates, or similar instruments.

15.2.2 "Environmental Attributes" means the current or future credits, benefits, emission reductions, offsets and allowances attributable to the generation of energy from a resource. Environmental Attributes do not include the tax credits associated with such resource. One megawatt-hour of energy generation from a resource is associated with one megawatt-hour of Environmental Attributes.

15.2.3 "Renewable Energy Certificates" or "RECs" means the certificates, documentation, or other evidence that demonstrates the ownership of Environmental Attributes.

15.2.4 BPA shall not be obligated to provide Environmental Attributes, Carbon Credits, or RECs, or the value of any or all of them, to Alcoa under this Agreement, absent a statutory obligation, or final court decision or order, requiring it to do so.

15.2.5 BPA reserves any ratemaking authority it otherwise possesses to determine and factor in a share of the value and/or cost of any or all of the RECs and Carbon Credits for the purpose of determining applicable wholesale rates pursuant to section 7(c)(2) of the Northwest Power Act. BPA further reserves its ratemaking authority to recover any costs resulting from such ratemaking actions through rates, including rates applicable to Alcoa.

16. NOTICES AND CONTACT INFORMATION

Any notice required under this Agreement that requires such notice to be provided under the terms of this section shall be provided in writing to the other Party in one of the following ways:

16.1 delivered in person;

16.2 by a nationally recognized delivery service with proof of receipt;

16.3 by United States Certified Mail with return receipt requested;

16.4 electronically, if both Parties have means to verify the electronic notice's origin, date, time of transmittal and receipt; or

16.5 by another method agreed to by the Parties.

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References in this Agreement to the "BPA representative" and the "Alcoa representative" are to the persons listed below. Notices are effective when received. Either Party may change the name or address for delivery of notice by providing

notice of such change or other mutually agreed method. The Parties shall deliver notices to the following person and address:

If to Alcoa:

Alcoa Inc.

Attn:

Phone:

FAX:

E-Mail:

If to BPA:

Bonneville Power Administration
905 NE 11th Avenue
P.O. 3621
Portland, OR 97208-3621»

Attn:

Account Executive

Phone:

FAX:

E-Mail:

17. UNCONTROLLABLE FORCES

The Parties shall not be in breach of their respective obligations to the extent the failure to fulfill any obligation is due to an Uncontrollable Force. "Uncontrollable Force" means an event beyond the reasonable control of, and without the fault or negligence of the Party claiming the Uncontrollable Force, that prevents that Party from performing its contractual obligations under this Agreement and which by exercise of that Party's reasonable care, diligence and foresight such Party was unable to avoid. Uncontrollable Forces include but are not limited to:

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- 17.1 any unplanned curtailment or interruption of firm transmission service used to deliver Firm Power under this Agreement to Alcoa whether such curtailment or interruption occurs on BPA's or a third party's transmission system;
- 17.2 any failure of Alcoa's production, distribution or transmission facilities that prevents Alcoa from taking Firm Power delivered to the Point of Receipt;
- 17.3 strikes or work stoppage, including the threat of imminent strikes or work stoppages; provided, however, that nothing contained in this provision shall be construed to require any party to settle any strike or labor dispute in which it may be involved.
- 17.4 floods, earthquakes, or other natural disasters; terrorist acts; and
- 17.5 final orders or injunctions issued by a court or regulatory body having competent jurisdiction which the party claiming the Uncontrollable Force, after diligent efforts, was unable to have stayed, suspended, or set aside pending review by a court of competent subject matter jurisdiction.

Neither the unavailability of funds or financing, nor conditions of national or local economies or markets shall be considered an Uncontrollable Force. The economic hardship of either Party shall not constitute an Uncontrollable Force.

If an Uncontrollable Force prevents a party from performing any of its obligations under this Agreement, such party shall: (1) immediately notify the other party of such Uncontrollable Force by any means practicable and confirm such notice in writing as soon as reasonably practicable; (2) use its best efforts to mitigate the effects of such Uncontrollable Force, remedy its inability to perform, and resume full performance of its obligation hereunder as soon as reasonably practicable; (3) keep the other party apprised of such efforts on an ongoing basis; and (4) provide written notice of the resumption of performance. Written notices sent under this section must comply with section 18, Notices and Contact Information.

18. GOVERNING LAW AND DISPUTE RESOLUTION

This Agreement shall be interpreted consistent with and governed by federal law. Alcoa and BPA shall identify issue(s) in dispute arising out of this Agreement and make a good faith effort to negotiate a resolution of such disputes before either may initiate litigation or arbitration. Such good faith effort shall include discussions or negotiations between the Parties' executives or managers. Pending resolution of a contract dispute or contract issue between the Parties or through formal dispute resolution of a contract dispute arising out of this Agreement, the Parties shall continue performance under this Agreement unless to do so would be impossible or impracticable. Unless the Parties engage in binding arbitration as provided for in this section ~~18~~, the Parties reserve their rights to individually seek judicial resolution of any dispute arising under this Agreement.

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Notwithstanding anything to the contrary in this section 18, any decision by BPA designated in this Agreement as being conclusive and binding on Alcoa shall not be subject to challenge by Alcoa.

18.1 Judicial Resolution

Final actions subject to section 9(e) of the Northwest Power Act are not subject to arbitration under this Agreement and shall remain within the exclusive jurisdiction of the United States Court of Appeals for the Ninth Circuit. Such final actions include, but are not limited to, the establishment and the implementation of rates and rate methodologies. Any dispute regarding any rights or obligations of Alcoa or BPA under any rate or rate methodology, or BPA policy, including the implementation of such policy, shall not be subject to arbitration under this Agreement. For purposes of this section 18, BPA policy means any written document adopted by BPA as a final action in a decision record or record of decision that establishes a policy of general application or makes a determination under an applicable statute or regulation. If BPA determines that a dispute is excluded from arbitration under this section 18, then Alcoa may apply to the federal court having jurisdiction for an order determining whether such dispute is subject to nonbinding arbitration under this section 18.

18.2 Arbitration

Any contract dispute or contract issue between the Parties arising out of this Agreement, which is not excluded by section 18.1 above, shall be subject to arbitration, as set forth below.

Alcoa may request that BPA engage in binding arbitration to resolve any dispute. If Alcoa requests such binding arbitration and BPA determines in its sole discretion that binding arbitration of the dispute is appropriate under BPA's Binding Arbitration Policy or its successor, then BPA shall engage in such binding arbitration, provided that the remaining requirements of this section 18.2 and sections 18.3 and 18.4 are met. BPA may request that Alcoa engage in binding arbitration to resolve any dispute. In response to BPA's request, Alcoa may agree to binding arbitration of such dispute, provided that the remaining requirements of this section 18.2 and sections 18.3 and 18.4 are met. Before initiating binding arbitration, the Parties shall draft and sign an agreement to engage in binding arbitration, which shall set forth the precise issue in dispute, the amount in controversy and the maximum monetary award allowed, pursuant to BPA's Binding Arbitration Policy or its successor.

Nonbinding arbitration shall be used to resolve any dispute arising out of this contract that is not excluded by section 18.1 above and is not resolved via binding arbitration, unless Alcoa notifies BPA that it does not wish to proceed with nonbinding arbitration.

18.3 Arbitration Procedure

Any arbitration shall take place in Portland, Oregon, unless the Parties agree otherwise. The Parties agree that a fundamental purpose for arbitration is the expedient resolution of disputes; therefore, the Parties shall make best efforts to resolve an arbitrable dispute within one year of initiating arbitration. The rules for arbitration shall be agreed to by the Parties.

18.4 Arbitration Remedies

The payment of monies shall be the exclusive remedy available in any arbitration proceeding pursuant to this section 18. This shall not be interpreted to preclude the Parties from agreeing to limit the object of arbitration to the determination of facts. Under no circumstances shall specific performance be an available remedy against BPA.

18.5 Finality

18.5.1 In binding arbitration, the arbitration award shall be final and binding on the Parties, except that either Party may seek judicial review based upon any of the grounds referred to in the Federal Arbitration Act, 9 U.S.C. §1-16 (1988). Judgment upon the award rendered by the arbitrator(s) may be entered by any court having jurisdiction thereof.

18.5.2 In nonbinding arbitration, the arbitration award is not binding on the Parties. Each Party shall notify the other Party within 30 calendar days, or such other time as the Parties otherwise agreed to, whether it accepts or rejects the arbitration award. Subsequent to nonbinding arbitration, if either Party rejects the arbitration award, either Party

may seek judicial resolution of the dispute, provided that such suit is brought no later than 395 calendar days after the date the arbitration award was issued.

18.6 Arbitration Costs

Each Party shall be responsible for its own costs of arbitration, including legal fees. Unless otherwise agreed to by the Parties, the arbitrator(s) may apportion all other costs of arbitration between the Parties in such manner as the arbitrator(s) deem reasonable taking into account the circumstances of the case, the conduct of the Parties during the proceeding, and the result of the arbitration.

19. STATUTORY PROVISIONS

19.1 Prohibition on Resale of Firm Power

Alcoa shall not resell Firm Power purchased from BPA under this Agreement.

19.2 BPA Appropriations Refinancing Act

The text of the BPA Refinancing section of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (BPA Refinancing Act), P.L. 104134, 110 Stat. 1321, 350, is incorporated as shown in Exhibit C, Special Provisions.

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20. STANDARD PROVISIONS

20.1 Amendments

Except where this Agreement explicitly allows for one Party to unilaterally amend a provision or revise an exhibit, no amendment or exhibit revision of this Agreement shall be of any force or effect unless set forth in a written instrument signed by authorized representatives of each Party.

20.2 Entire Agreement and Order of Precedence

This Agreement, including documents expressly incorporated by reference, constitutes the entire agreement between the parties with respect to the subject matter of this Agreement. It supersedes all previous communications, representations, or contracts, either written or oral, which purport to describe or embody the subject matter of this Agreement. The body of this Agreement shall prevail over the exhibits to this Agreement in the event of a conflict.

20.3 Assignment

Alcoa may assign this Agreement upon 90 days written notice, but only to a successor-in-interest that has acquired ownership, through purchase or merger, of the Intalco Plant, and then only if such assignee expressly agrees in writing to be bound by the terms of this Agreement. Such assignment will be subject to any reasonable requirement by BPA that the assignee provide credit security, in a form acceptable to BPA, to secure performance of assignee's obligations under this Agreement. It shall not be deemed

unreasonable for BPA to require credit security from an assignee with a Moody's credit rating below "A", or the equivalent if rated by another credit rating agency. No other assignment of this Agreement by Alcoa is permitted.

20.4 No Third-Party Beneficiaries

This Agreement is made and entered into for the sole benefit of the Parties, and the Parties intend that no other person or entity shall be a direct or indirect beneficiary of this Agreement.

20.5 Waivers

No waiver of any provision or breach of this Agreement shall be effective unless such waiver is in writing and signed by the waiving Party, and any such waiver shall not be deemed a waiver of any other provision of this Agreement or any other breach of this Agreement.

20.6 BPA Policies

Any reference in this Agreement to BPA policies, including any revisions thereto, does not constitute agreement of Alcoa to such policy by execution of this Agreement, nor shall it be construed to be a waiver of any right of Alcoa to seek judicial review of any such policy.

20.7 Severability

If any term of this Agreement is found or rendered invalid or unenforceable by a court of competent jurisdiction, then unless that term is not severable from all other provisions of this Agreement, such invalidity or unenforceability shall not otherwise affect any remaining lawful obligations under this Agreement. Neither Party shall be liable to the other Party for any damages associated with any term being severed from this Agreement.

20.8 Credit Assurance

20.8.1 Notwithstanding anything in this Agreement to the contrary, BPA may require that Alcoa provide BPA with an irrevocable standby letter of credit in the amount of \$30,000,000, issued in a form and by a bank acceptable to BPA. Such letter of credit shall have an expiration date 1 year from its date of issuance, and BPA may require replacement letters of credit so that a letter of credit is in place on a continuous basis for the term of this Agreement. The amount of replacement letters of credit will be established by the product of: i) the highest monthly average applicable IP rate; ii) 320 MW; iii) 103 days; and iv) 24 hours (e.g. \$38/MWh X 320 MW X 103 days X 24 hours = \$30 million).

If Alcoa fails to provide any letter of credit requested by BPA pursuant to this section 20.8.1 and 20.8.2, then BPA may terminate this Agreement.

20.8.2 In the event that BPA requests a letter of credit pursuant to section 20.8.1, Alcoa and BPA shall confer concerning the necessity

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¶
20.8.3

for, and terms concerning, such letter of credit for no more than the two Business Days immediately following the date of such request; provided, however, that BPA's determination regarding its need for a letter of credit as provided for in section 20.8.1 shall be conclusive and not subject to dispute resolution. Alcoa shall arrange for any letter of credit requested by BPA to be issued to BPA no later than three Business Days following such discussions.

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20.8.3 Notwithstanding anything in section 20.8.1 or 20.8.2, should Alcoa's financial responsibility or performance viability become unsatisfactory to BPA in BPA's reasonably exercised discretion, then BPA may seek performance assurance from Alcoa in addition to that required pursuant to sections 20.8.1 and 20.8.2, consistent with law.

20.9 Drafting of Agreement

This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation or other event of negotiation, drafting or execution hereof.

20.10 Execution by Counterparts

This Agreement may be executed in counterparts, and upon execution by each Party, each executed counterpart shall have the same force and effect as an original instrument and as if each Party had signed the same instrument.

20.11 Waiver of Damages

In the event the Ninth Circuit Court of Appeals or other court of competent jurisdiction issues a final order that declares or renders this Agreement, or any part thereof, void or otherwise unenforceable, neither Party shall be entitled to any damages or restitution of any nature, in law or equity, from the other Party, and each Party hereby expressly waives any right to seek such damages or restitution. For the avoidance of doubt, the Parties agree this provision shall survive the termination of this Agreement, including any termination effected through any order described herein.

21. TERMINATION

For ease of reference, this section 21 is intended to collect into one section termination events specified in various sections of this Agreement, plus describe certain additional termination events not described elsewhere.

21.1 Alcoa Right to Terminate

21.1.1 Alcoa Right to Terminate for Any Reason

Alcoa may provide written notice to terminate this Agreement anytime during the Initial Period, Transition Period or Second Period of this Agreement.

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21.1.1.1 As to the Initial Period and any Extended Initial Period or Transition Period, such notice shall include an effective date

of termination (Termination Effective Date) that is no earlier than six months following the date that BPA receives such notice. Such notice shall also specify, for each month during the period prior to the Termination Effective Date, the amount of Firm Power, if any, that Alcoa shall take and pay for prior to the Termination Effective Date. Alcoa's obligation shall be to take or pay for 90 percent of the then-current Firm Power consumption for the first three months following the notice. During the remainder of the Initial, Extended, and Transition Periods, Alcoa shall be obligated to pay the IP rate for the monthly amounts of Firm Power that it actually consumes prior to the Termination Effective Date

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21.1.1.2 As to the Second Period, if any, such notice shall include a Termination Effective Date that is no earlier than 12 months following the date that BPA receives such notice. Such notice shall also specify, for each month during the period prior to the Termination Effective Date, the amount of Firm Power, if any, that Alcoa shall take and pay for prior to the Termination Effective Date. Alcoa's take or pay obligation shall be equal to 320 aMW less the monthly amounts, if any, that Alcoa has agreed to take and pay for.

The employment provisions of sections 8 and Exhibit G shall apply to amounts of Firm Power, if any, Alcoa elects to take and pay for during any Period of this Agreement.

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Following the receipt by BPA of a notice to terminate pursuant to this section 21.1.1, Alcoa agrees that it shall not, prior to the end of the Second Period, if any, of this Agreement request any power from BPA surplus or otherwise.

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21.1.2 Alcoa Termination Following BPA Termination Under Section 6.2

If, pursuant to section 6.2 above, BPA has provided notice that this Agreement shall terminate, Alcoa may provide written notice to terminate this Agreement anytime. For avoidance of doubt, the effective date of termination may be less than 12 months following the date that BPA receives such notice, and Alcoa shall not be obligated to pay the IP rate for Firm Power not taken from the date of notice through the effective date of termination. In addition, in the event of such termination, BPA agrees to waive section 21.1.5.

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21.1.3 Alcoa Termination During a Period of Curtailment

If, pursuant to section 21.1.1 above, Alcoa provides BPA with a written notice to terminate during a period of curtailment, then such curtailment shall end as of the date BPA receives such notice, and during the period between the notice and the effective termination date the options described in section 21.1.1 above shall apply.

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21.1.4 Alcoa Right to Terminate if Certain Taxes or Charges are Imposed on Alcoa by BPA

If costs directly attributable to the Alcoa Load associated with either (1) renewable energy portfolio standard obligations, or (2) costs for carbon taxes or charges, greenhouse gas mitigation costs, or other similar environmental or regulatory charges (“Environmental Costs”), are imposed on BPA directly (as opposed to being indirectly imposed on the cost of third party power acquisitions by BPA) and all such Environmental Costs have not been allocated to, and recovered by BPA through, the IP rate schedule, then BPA shall bill Alcoa for such Environmental Costs, and Alcoa shall be obligated to pay such Environmental Costs and continue performance under this Agreement; provided, however, that in the event all Environmental Costs paid by Alcoa to BPA equal or exceed \$2 million, then in the event Alcoa is billed any additional Environmental Costs by BPA, Alcoa shall have the option to terminate pursuant to section 21.1.1 above, but Alcoa shall not be obligated to pay the IP rate for Firm Power not taken during the 12month period prior to such termination.

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21.1.5 No Operation Following Termination

Except as provided for in section 21.1.2 above, Alcoa agrees that in the event it exercises its right to terminate under this section 21, that the earliest it will restart operations at the Intalco Plant is following the end of the Second Period.

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21.2 BPA’s Right to Terminate

BPA may terminate this Agreement if:

21.2.1 Alcoa fails to take and pay for Firm Power made available to it under this Agreement, unless such failure is excused under section 9 or section 17.

21.2.2 Alcoa fails to provide payment assurance satisfactory to BPA as required by section 20.8.

21.2.3 Alcoa fails to maintain Employment Levels as required by section 8.

21.2.4 Alcoa resells Firm Power.

21.2.5 Alcoa fails to provide BPA with any irrevocable standby letter of credit required by section 20.8.1.

21.2.6 The Ninth Circuit finds this Agreement is unlawful or otherwise prevents BPA from performing its obligations hereunder.

21.2.7 Alcoa does not request an extension of the Initial Period.

21.2.8 Alcoa does request an extension of the Initial Period, but BPA determines pursuant to section 6.2.1.

21.2.9 There is no Transition Period.

21.2.10 BPA determines it can meet the standard in section 6.1.1(i), but pursuant to Exhibit B, BPA determines that the cost to serve the Alcoa Load with 320 aMW of Firm Power for the entire Second Period will exceed the applicable Cost Caps in Exhibit B.

21.2.11 BPA determines it cannot meet the standard in section 6.1.1(i).

Termination by BPA under this section 21.2 is without prejudice to any other remedies available to BPA under law.

22. PRIOR AGREEMENT

22.1 Termination of Prior Agreement

The Prior Agreement, as amended, shall terminate at 2400 hours on November 30, 2009.

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22.2 Waiver of Claims Under Prior Agreement

In the event BPA issues a final record of decision with respect to the issues remanded to BPA (the Remand ROD) by the United States Court of Appeals for the Ninth Circuit (Ninth Circuit) in Pacific Northwest Generating Cooperative, et al. v. Bonneville Power Administration, 550 F.3d 846 (9th Cir. 2008) (PNGC I), and Pacific Northwest Generating Cooperative, et al. v. Bonneville Power Administration, Nos. 09-70228, 09-70236, 09-70988 (9th Cir. Aug. 28, 2009) (PNGC II), in which BPA determines that no payments are owing by Alcoa to BPA or by BPA to Alcoa, then Alcoa agrees that it waives any legal, equitable, or other claim or right of any nature that it has, or may have in the future, for money or any other remedy, with respect to the Prior Agreement; provided, however, that the foregoing waiver by Alcoa will be of no force or effect in the event that the Ninth Circuit issues its mandate in a case in which it has granted a petition for review challenging the Remand ROD and has issued an order or opinion that finds such payments are required under the Prior Agreement.

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23. FEASIBILITY OF ENTERING INTO SUBSEQUENT AGREEMENT

If requested by Alcoa, BPA shall conduct a public process to examine the feasibility of entering into a subsequent power sales agreement with Alcoa that would begin upon the termination of this Agreement, other than under sections 21.1.1 or 21.1.3 of this Agreement. In addition to examining the terms of service for any such subsequent agreement, the public process will include a study analyzing the impacts on the regional economy associated with such a subsequent agreement. This section 23 is not intended and shall not be construed as requiring BPA to offer any such subsequent agreement, irrespective of the conclusions or findings following the completion of any public process undertaken.

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24. **ALCOA COVENANTS**

24.1 Alcoa Covenant Not to Challenge Validity of this Agreement

Alcoa agrees that it shall not challenge, any determination regarding Equivalent Benefits, in any proceeding before the Ninth Circuit but Alcoa reserves the right to challenge BPA's decision to apply the Equivalent Benefits standard and to intervene in any proceeding in the Ninth Circuit in which a challenge to the validity of this Agreement, or any part thereof, has been filed.

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24.2 Alcoa Covenant Not to Request Surplus Firm Power from BPA or Challenge BPA Sales of Surplus Firm Power to Other Customers
Other than as set forth in sections 4, 5, 6, and 23 of this Agreement, during the Initial Period, any Extended Initial Period, and Transition Period, or any Second Period, Alcoa will make no additional request for power from BPA, whether Surplus Firm Power or otherwise; provided, further, that during such period Alcoa agrees not to file a petition for review in the Ninth Circuit challenging (a) any proposed or actual sale of Surplus Firm Power by BPA to any other BPA customer, whether inside or outside the Region, or (b) any rate adopted by BPA, and approved on a final basis by the Federal Energy Regulatory Commission, for the sale of Surplus Firm Power; provided, however, that the foregoing commitment by Alcoa will be of no force or effect in the event the Ninth Circuit issues its mandate in a case in which it has granted a petition for review challenging this Agreement and has issued an order or opinion that declares or renders this Agreement void and provided further that in the event that BPA terminates this Agreement pursuant to section 6.2 the covenant and waivers, above, shall not apply to the period following such termination.

25. **SIGNATURES**

The Parties have caused this Agreement to be executed as of the date both Parties have signed this Agreement.

Deleted: The signatories represent that they are authorized to enter into this Agreement on behalf of the Party for which they sign.¶

ALCOA INC.

UNITED STATES OF AMERICA
Department of Energy
Bonneville Power Administration

Deleted: Alcoa Inc.

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By _____

By _____

Name John G. Thuestad
(Print/Type)

Name Stephen J. Wright
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Title Chief Operating Officer, Global Primary Products

Title Administrator and Chief Executive Officer

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US

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Date _____

Date _____

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**Exhibit A
BILLING**

1. INDUSTRIAL FIRM POWER ENTITLEMENTS

- 1.1 The MW made available by BPA under this Agreement multiplied by: (1) the number of HLH; and (2) the number of LLH in the applicable month establishes Alcoa's HLH and LLH Energy Entitlements.
- 1.2 The MW amount made available by BPA under this Agreement establishes Alcoa's Demand Entitlement.

2. UNAUTHORIZED INCREASE CHARGE

Hourly Firm Power scheduled by Alcoa in excess of amounts specified in Exhibit A shall be subject to the Unauthorized Increase Charge for demand and energy consistent with the applicable BPA Wholesale Power Rate Schedules and GRSPs, unless such power is provided under another contract with PS.

3. REVISIONS

If this exhibit is inconsistent with BPA's Industrial Firm Power Rate Schedule, or its successor, as finally approved by FERC, the Parties shall make a good faith effort to amend this exhibit so that it is consistent.

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**Exhibit B
COST CAPS**

1. DEFINITIONS

1.1 “Acquisition Cost for any portion of the Initial Period, and any Extended Initial Period or Transition Period” during FY 2010 and FY 2011 means the weighted average of the monthly unit cost of BPA system resource purchases made, or the weighted average of the forecasted monthly unit cost of BPA system resource purchases to be made, by BPA multiplied by the volume in MWh of such purchases as applied each month to make available Requested Firm Power to Alcoa, for the purpose of computing Forecasted Cost under this Agreement.

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1.2 “Acquisition Cost for any portion of the Second Period beginning in FY 2012 and beyond” means the weighted average of the monthly unit cost of BPA system resource purchases made, or the weighted average of the forecasted monthly unit cost of BPA system resource purchases to be made, assigned to the Composite Cost Pool under the Tiered Rates Methodology, including DSI loads multiplied by the volume in MWh of such purchases as applied each month to make available Requested Firm Power to Alcoa, for the purpose of computing Forecasted Cost under this Agreement.

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1.3 “Cost Cap” shall have the meaning described in section 2.1 and section 3.1 of this Exhibit.

1.4 “Credit Cost” means the actual cost or forecasted cost to BPA of a credit default swap or other credit risk hedging instrument purchased by BPA.

1.5 “Environment or Regulatory Cost” means costs incurred, or to be incurred, by BPA that are associated with carbon taxes or charges, greenhouse gas mitigation costs, or other similar environmental or regulatory costs

1.6 “Forecasted Cost” shall have the meaning described in section 4 of this Exhibit.

1.7 “Forecasted Net Cost” means the result on line J of the calculation in section section 2.1 or section section 3.1 of this Exhibit for the applicable period. Subject to section section 2.2 of this Exhibit, the equivalent of \$41 million per year is the net cost cap for the Initial Period, and any Extended Initial Period or Transition Period and the equivalent of \$60 million per year is the net cost cap for the Second Period.

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1.8 “Inventory Cost” means the weighted average of the monthly actual unit cost of, or opportunity cost of, BPA’s surplus inventory, as valued by BPA with reference to then current market prices, forward curves, and BPA market price forecasts, multiplied by the volume in MWh of BPA’s surplus inventory

as applied each month to make available the Requested Firm Power to Alcoa, for the purposes of computing Forecasted Cost under this Agreement.

1.9 “Requested Firm Power” means the total amount of Firm Power requested by Alcoa in the notice provided to BPA pursuant to section 5.2 of the body of this Agreement.

2. **COST CAP IN THE INITIAL AND TRANSITION PERIODS**

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2.1 **Cost Cap**

The Forecasted Net Cost for increases above 285 aMW during the Initial Period and any Extended Initial Period and the Forecasted Net Cost for the Transition Period is determined by subtracting (1) the actual forecasted IP Revenues to be received from Alcoa from (2) the Forecasted Cost as illustrated on line J of Table 1 below:

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TABLE 1 - Example Calculation of the Forecasted Net Cost in the Initial and Transition Period	Maximum Value	Example Value
A) Firm Power	285 aMW	285 aMW
B) Requested Increase in Firm Power <i>[effective date of request must be provided inclusive of contractual notice]</i>	35 aMW	35 aMW
C) Requested Firm Power = A + B	320 aMW	320 aMW
D) Maximum Contract Volume (MWh) = C * 8760 hours * 2 years <i>[weighted for appropriate effective dates of requested firm power]</i>	5,256,000	5,256,000
E) Losses percentage	1.9%	1.9%
F) Maximum Contract Volume (MWh, including losses) = D * (1+E)	5,355,864	5,355,864
G) Weighted Average IP rate for FY10-11 (\$ per MWh) <i>[weighted for appropriate effective dates of requested firm power]</i>	\$ 34.60	\$ 34.60
H) Forecasted Cost (\$) <i>[see definition and example in section 4 of this Exhibit]</i>	\$ 263,857,600	\$ 253,332,367
I) Forecasted IP Revenue (\$) = D * G	\$ 181,857,600	\$ 181,857,600
J) Forecasted Net Cost = H - I	\$ 82,000,000	\$ 71,474,767
K) Forecasted Cost (\$ per MWh) = H / F	\$ 49.27	\$ 47.30
L) Forecasted Net Cost (\$ per FY in period) = J / (2 fiscal years)	\$ 41,000,000	\$ 35,737,384

TABLE 1 - Example Calculation of the Forecasted Net Cost in the Initial and Transition Period
A) Firm Power
B) Requested Increase in Firm Power <i>[effective date of request must be provided inclusive of contractual notice]</i>
C) Requested Firm Power = A + B
D) Maximum Contract Volume (MWh) = (A * 8760 hours * 2 years) <i>[weighted for appropriate effective dates of requested firm power]</i>
E) Losses percentage
F) Maximum Contract Volume (MWh, including losses) = D * (1+E)
G) Weighted Average IP rate for FY10-11 (\$ per MWh) <i>[weighted for appropriate effective dates of requested firm power]</i>
H) Forecasted Cost (\$) <i>[see definition and example in section 4 of this Exhibit]</i>
I) Forecasted IP Revenue (\$) = D * G
J) Forecasted Net Cost = H - I
K) Forecasted Cost (\$ per MWh) = H / F
L) Forecasted Net Cost (\$ per FY in period) = J / (2 fiscal years)

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The Forecasted Net Cost represents a forecast of BPA’s cost (net of IP revenues) to serve the Alcoa Load with 320 aMW of Firm Power for the Initial Period, and any Extended Initial Period or Transition Period and must be forecast to be less than or equal to the equivalent of \$41 million per year for the applicable period (the “Cost Cap”); provided however such Cost Cap may be increased pursuant to section 2.2 of this Exhibit B.

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2.2 **Increase for Other DSI Curtailment**

To the extent any other aluminum smelter DSI notifies BPA of a curtailment under its BPA power sales agreement during the Initial Period, then during the duration of such curtailment, the equivalent of the \$41 million per year Cost Cap applicable to Alcoa under this Agreement for the Initial Period will

be increased by an amount equal to the amount of the Cost Cap forgone by such other aluminum smelter DSI, and the \$48 per MWh cost cap will be increased accordingly.

2.3 Application of Cost Cap during Transition Period of BPA Power Purchase under section 6.1.

For the avoidance of doubt, the total amount under the Cost Cap applicable to Alcoa under sections 2.1 or 2.2 of this Exhibit B may be utilized by BPA to provide Firm Power to Alcoa during the Transition Period while BPA is seeking to purchase power for a Second Period pursuant to section 6.1 of the body of the Agreement. The total amount under the Cost Cap will also include benefit BPA realizes for not providing Alcoa IP service from October 1, 2006 through November 30, 2009.

By way of example only, if the Forecasted Net Cost of service to Alcoa for a 2-year Initial Period prior to the application of section 6.1 was \$60 million (less than \$82 million), then the \$22 million in net cost savings would be added to the \$41 million (prorated for less than 12 months) available during a 12-month Transition Period under section 6.1 of the body of the Agreement, meaning that \$63 million would be available to contribute to supply Firm Power to Alcoa during a full 12-month Transition Period.

3. COST CAP IN THE SECOND PERIOD

3.1 Cost Cap

The Forecasted Net Cost for the Second Period is determined by subtracting (1) the forecasted IP Revenues to be received from Alcoa from (2) the Forecasted Cost as illustrated on line J of Table 2 below:

TABLE 2 - Example Calculation of the Forecasted Net Cost in the Second Period	Maximum Value	Example Value
A) Firm Power	n/a	n/a
B) Requested Increase in Firm Power	n/a	n/a
C) Requested Firm Power = 320 aMW	320 aMW	320 aMW
D) Maximum Contract Volume (MWh) = C * 8760 hours * 5 years	14,016,000	14,016,000
E) Losses percentage	1.9%	1.9%
F) Maximum Contract Volume (MWh, including losses) = D * (1+E)	14,282,304	14,282,304
G) Weighted Average IP rate for FY12-16 (\$ per MWh)	\$ 38.22	\$ 38.22
H) Forecasted Cost (\$) <i>[see definition and example in section 4 of this Exhibit]</i>	\$ 835,624,476	\$ 756,105,174
I) Forecasted IP Revenue (\$) = D * G	\$ 535,624,476	\$ 535,624,476
J) Forecasted Net Cost = H - I	\$ 300,000,000	\$ 220,480,698
K) Forecasted Cost (\$ per MWh) = H / F	\$ 58.51	\$ 52.94
L) Forecasted Net Cost (\$ per FY in period) = J / (5 fiscal years)	\$ 60,000,000	\$ 44,096,140

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TABLE 2 - Example Calculation of the Forecasted Net Cost in the Second Period	Maximum Value	Example Value
A) Firm Power	n/a	n/a
B) Requested Increase in Firm Power	n/a	n/a
C) Requested Firm Power = 320 aMW	320 aMW	320 aMW
D) Maximum Contract Volume (MWh) = C * 8760 hours * 5 years	14,016,000	14,016,000
E) Losses percentage	1.9%	1.9%
F) Maximum Contract Volume (MWh, including losses) = D * (1+E)	14,282,304	14,282,304
G) Weighted Average IP rate for FY12-16 (\$ per MWh)	\$ 38.22	\$ 38.22
H) Forecasted Cost (\$) <i>[see definition and example in section 4 of this Exhibit]</i>	\$ 835,624,476	\$ 756,105,174
I) Forecasted IP Revenue (\$) = D * G	\$ 535,624,476	\$ 535,624,476
J) Forecasted Net Cost = H - I	\$ 300,000,000	\$ 220,480,698
K) Forecasted Cost (\$ per MWh) = H / F	\$ 58.51	\$ 52.94
L) Forecasted Net Cost (\$ per FY in period) = J / (5 fiscal years)	\$ 60,000,000	\$ 44,096,140

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The Forecasted Net Cost represents a forecast of BPA’s cost (net of IP revenues) to serve the Alcoa Load with 320 aMW of Firm Power for the Second Period and must be forecast to be less than or equal to \$300 million (the “Cost Cap”).

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To the extent Parties anticipate a Forecasted Net Cost exceeding the \$300 million Cost Cap, then by mutual agreement the Parties may: i) adjust FTE commitment levels; or ii) reduce the 18 month limit of the curtailment duration during the Second Period specified in section 9.2 of the body of the Agreement, in order to increase the Cost Cap. The Parties agree that the Cost Cap may not be increased above \$330 million. For example, the Parties may increase FTE commitment (direct DSI jobs) up to 58 FTE in each year of smelter operation (203 job-years) and increase the Cost Cap an equivalent amount up to but not exceeding \$330 million (line K in Table 2 above would increase up to \$60.61 per MWh). The Parties shall amend this Agreement to implement agreed to adjustments to increase the Cost Cap in the Second Period, including revisions to Exhibits that may be necessary.

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4. METHODOLOGY TO DETERMINE FORECASTED COST

The Forecasted Cost shall be determined by BPA in its sole discretion and will include, but is not limited to, the sum of the following costs: Acquisition Cost, Inventory Cost, Credit Cost, Environmental and Regulatory Cost. (“Forecasted Cost”)

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For each month in the period, BPA will assemble the information in Table 3 in the commercially reasonable manner below:

Table 3

Net Cost Check	\$ 31,970,002	\$ 49,970,301	\$ 81,940,303
IP Revenues	\$ 93,948,090	\$ 97,002,675	\$ 190,950,765

\$48 per MWh test

	Cost			HLH LLH split
	FY2010	FY2011		
Forecasted Cost	\$ -	\$ -	\$ -	
Acquisition Cost	\$ -	\$ -	\$ -	
Acquisitions Made				
Acquisitions to be Made				
Inventory Cost	\$ 125,918,091	\$ 146,972,976	\$ 272,891,068	
Inventory Applied	\$ 125,918,091	\$ 146,972,976	\$ 272,891,068	
Inventory to be Applied				
Credit Cost				
Environmental and Regulatory Cost				
Total - by Fiscal Year				

\$ 49.45 per MWh of Sales to Alcoa during FY10-11
 \$ 48.67 per MWh of 320 aMW Sale to Alcoa for the entire FY10-11 period
 5,518,080 MWh Sales to Alcoa during FY10-11
 618,240 MWh of actual sales to thru effective date of increase
 4,899,840 MWh of 320 aMW sales to Alcoa subsequent to the effective date
 730 total days in period

assumes 3-month notice given at contract signing

	Volume (MWh incl losses)		
	FY2010	FY2011	
Forecasted Cost			
Acquisition Cost			
Acquisitions made	-	-	-
Acquisitions to be Made	2,766,463	2,856,461	5,622,924
Inventory Cost			
Inventory Applied	-	-	-
Inventory to be Applied	-	-	-
Credit Cost	-	-	-
Environmental and Regulatory Cost	-	-	-
Sum of Acquisitions & Inventory - by Fiscal Year	2,766,463	2,856,461	5,622,924

** Loads applied to Credit and E&R Costs may not be additive.

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Table 3 continued

		Cost to Serve																							
Days		31	30	31	31	28	31	30	31	30	31	31	30	31	30	31	31	28	31	30	31	30	31	31	30
		Oct-09	Nov-09	Dec-09	Jan-10	Feb-10	Mar-10	Apr-10	May-10	Jun-10	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	Apr-11	May-11	Jun-11	Jul-11	Aug-11	Sep-11
Forecasted Cost																									
Acquisition Cost																									
Acquisitions made	\$	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Acquisitions to be Made	\$	8,756,743	8,474,267	8,756,743	11,347,401	10,249,266	11,347,401	10,981,356	11,347,401	10,981,356	11,347,401	11,347,401	10,981,356	11,347,401	10,981,356	11,347,401	12,865,206	11,620,186	12,865,206	12,450,200	12,865,206	12,450,200	12,865,206	12,865,206	12,450,200
Inventory Cost																									
Inventory Applied	\$	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Inventory to be Applied	\$	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Credit Cost	\$	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Environmental and Regulatory Cost	\$	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total - by Month	\$	8,756,743	8,474,267	8,756,743	11,347,401	10,249,266	11,347,401	10,981,356	11,347,401	10,981,356	11,347,401	11,347,401	10,981,356	11,347,401	10,981,356	11,347,401	12,865,206	11,620,186	12,865,206	12,450,200	12,865,206	12,450,200	12,865,206	12,865,206	12,450,200
Volume Required to Serve (MWh incl losses)																									
Days		31	30	31	31	28	31	30	31	30	31	31	30	31	30	31	31	28	31	30	31	30	31	31	30
		Oct-09	Nov-09	Dec-09	Jan-10	Feb-10	Mar-10	Apr-10	May-10	Jun-10	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	Apr-11	May-11	Jun-11	Jul-11	Aug-11	Sep-11
Forecasted Cost																									
Acquisition Cost																									
Acquisitions made	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Acquisitions to be Made		212,278	205,430	212,278	242,604	219,126	242,604	234,778	242,604	234,778	242,604	242,604	234,778	242,604	242,604	242,604	219,126	242,604	234,778	242,604	234,778	242,604	242,604	242,604	234,778
Inventory Cost																									
Inventory Applied	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Inventory to be Applied	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Credit Cost	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Environmental and Regulatory Cost	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Sum of Acquisitions & Inventory - by Month		212,278	205,430	212,278	242,604	219,126	242,604	234,778	242,604	234,778	242,604	242,604	234,778	242,604	242,604	242,604	219,126	242,604	234,778	242,604	234,778	242,604	242,604	242,604	234,778
** Loads applied to Credit and E&R Costs may not be additive.																									
Average Load (aMW, not incl losses)																									
Days		31	30	31	31	28	31	30	31	30	31	31	30	31	30	31	31	28	31	30	31	30	31	31	30
		Oct-09	Nov-09	Dec-09	Jan-10	Feb-10	Mar-10	Apr-10	May-10	Jun-10	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	Apr-11	May-11	Jun-11	Jul-11	Aug-11	Sep-11
Forecasted Cost																									
Acquisition Cost																									
Acquisitions made	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Acquisitions to be Made	280	280	280	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320
Inventory Cost																									
Inventory Applied	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Inventory to be Applied	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Credit Cost	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Environmental and Regulatory Cost	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sum of Acquisitions & Inventory - by Month	280	280	280	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320	320
** Loads applied to Credit and E&R Costs may not be additive.																									
Weighted Average Unit Cost by Month																									
Days		31	30	31	31	28	31	30	31	30	31	31	30	31	30	31	31	28	31	30	31	30	31	31	30
		Oct-09	Nov-09	Dec-09	Jan-10	Feb-10	Mar-10	Apr-10	May-10	Jun-10	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	Apr-11	May-11	Jun-11	Jul-11	Aug-11	Sep-11
Forecasted Cost																									
Acquisition Cost																									
Acquisitions made	\$	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Acquisitions to be Made	\$	41.25	41.25	41.25	46.77	46.77	46.77	46.77	46.77	46.77	46.77	46.77	46.77	46.77	46.77	46.77	53.03	53.03	53.03	53.03	53.03	53.03	53.03	53.03	53.03
Inventory Cost																									
Inventory Applied	\$	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Inventory to be Applied	\$	41.25	41.25	41.25	46.77	46.77	46.77	46.77	46.77	46.77	46.77	46.77	46.77	46.77	46.77	46.77	53.03	53.03	53.03	53.03	53.03	53.03	53.03	53.03	53.03
Credit Cost	\$	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Environmental and Regulatory Cost	\$	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Expected acquisitions	\$	38.77	38.77	38.77	43.96	43.96	43.96	43.96	43.96	43.96	43.96	43.96	43.96	43.96	43.96	43.96	49.84	49.84	49.84	49.84	49.84	49.84	49.84	49.84	49.84

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Exhibit C
SPECIAL PROVISIONS

1. BPA APPROPRIATIONS REFINANCING

In accordance with section 21.2 of the body of this Agreement, section (i) of the BPA Refinancing Section of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (BPA Refinancing Act), P.L. No. 104-134, 110 Stat. 1321-350, is included in this Agreement--

1.1 Contract Provisions

In each contract of the Administrator that provides for the Administrator to sell electric power, transmission, or related services, and that is in effect after September 30, 1996, the Administrator shall offer to include, or as the case may be, shall offer to amend to include, provisions specifying that after September 30, 1996--

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1.1.1 the Administrator shall establish rates and charges on the basis that

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1.1.1.1 the principal amount of an old capital investment shall be no greater than the new principal amount established under subsection (b) of the BPA Refinancing Act;

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1.1.1.2 the interest rate applicable to the unpaid balance of the new principal amount of an old capital investment shall be no greater than the interest rate established under subsection (c) of the BPA Refinancing Act;

Deleted: (B)

1.1.1.3 any payment of principal of an old capital investment shall reduce the outstanding principal balance of the old capital investment in the amount of the payment at the time the payment is tendered; and

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1.1.1.4 any payment of interest on the unpaid balance of the new principal amount of an old capital investment shall be a credit against the appropriate interest account in the amount of the payment at the time the payment is tendered;

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1.1.2 apart from charges necessary to repay the new principal amount of an old capital investment as established under subsection (b) of the BPA Refinancing Act and to pay the interest on the principal amount under subsection (c) of the BPA Refinancing Act, no amount may be charged for return to the United States Treasury as repayment for or return on an old capital investment, whether by way of rate, rent, lease payment, assessment, user charge, or any other fee;

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1.1.3 amounts provided under section 1304 of title 31, United States Code, shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United

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Field Code Changed

States on a claim for a breach of the contract provisions required by this Part; and

1.1.4 the contract provisions specified in this Part do not--

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1.1.4.1 preclude the Administrator from recovering, through rates or other means, any tax that is generally imposed on electric utilities in the United States, or

1.1.4.2 affect the Administrator's authority under applicable law, including section 7(g) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e(g)), to--

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1.1.4.2.1 allocate costs and benefits, including but not limited to fish and wildlife costs, to rates or resources, or

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1.1.4.2.2 design rates

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2. REVISIONS

This exhibit shall be revised by mutual agreement of the Parties to reflect additional special provisions during the term of this Agreement.

Field Code Changed

**Exhibit D
METERING**

1. **METERING**

Directly Connected Points of Delivery

BPA POD Name: Intalco 13.8 kV;
BPA POD Number: TBD*;
WECC Balancing Authority: BPAT;

Location: the point in BPA's Intalco Substation where the 13.8 kV facilities of BPA and Alcoa are connected;

Voltage: 13.8 kV;

TBD* This data element is currently unresolved and shall be determined by BPA prior to June 1, 2011.

2. **REVISIONS**

Each Party shall notify the other in writing if updates to this exhibit are necessary to accurately reflect the actual characteristics of POD and meter information described in this exhibit. The Parties shall revise this exhibit to reflect such changes. The Parties shall mutually agree on any such exhibit revisions and agreement shall not be unreasonably withheld or delayed. The effective date of any exhibit revision shall be the date the actual circumstances described by the revision occur.

Exhibit E
SCHEDULING

1. SCHEDULING FEDERAL RESOURCES

Alcoa is responsible for creating e-Tags for all deliveries of federal power purchased under this Agreement.

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In the event of an unplanned outage that affects future hours, Alcoa or its scheduling agent is responsible for adjusting e-Tags to accurately reflect the amount of load actually being served by generation provided by BPA.

2. AFTER THE FACT

BPA and Alcoa agree to reconcile all transactions, schedules and accounts at the end of each month (as early as possible within the first 10 calendar days of the next month). BPA and Alcoa shall verify all transactions per this Agreement, as to product or type of service, hourly amounts, daily and monthly totals, and related charges.

3. REVISIONS

BPA may unilaterally revise this exhibit: (1) to implement changes that are applicable to all customers who are subject to this exhibit and that BPA determines are reasonably necessary to meet its power and scheduling obligations under this Agreement or (2) to comply with requirements of the WECC, NAESB, or NERC, or their successors or assigns.

Revisions are effective 45 days after BPA provides written notice of the revisions to Alcoa unless, in BPA's sole judgment, less notice is necessary to comply with an emergency change to the requirements of the WECC, NAESB, NERC, or their successors or assigns. In this case, BPA shall specify the effective date of such revisions.

**Exhibit F
POWER RESERVES**

1. DEFINITIONS

1.1 "Event" is a system condition under which PS needs additional power to meet its obligations during a system disturbance. The beginning of an Event shall be identified by alarm notice to the PS Loads Scheduler/Hydro Duty Scheduler of a system disturbance, and the Loads Scheduler will notify Alcoa that Restricted Energy is required. The end of the Event shall occur the earlier of when; a) initially established; b) Alcoa's scheduling agent has notified Alcoa that full service has been restored; or c) 105 minutes from the beginning of the Event. An Event shall not include BPA electing not to purchase power for economic reasons, nor shall an Event include circumstances in which BPA elects not to purchase available transmission capacity to avoid the need to impose a restriction.

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1.2 "Event Duration" shall be the total cumulative Event Minutes of the Event.

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1.3 "Event Minute" shall be the minutes of restriction (or any portion thereof) during an Event.

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1.4 "Contingency Reserves" are those reserves provided by Alcoa under this Agreement for purposes of providing reserves for BPA's firm power loads within the region, as provided for in the Northwest Power Act.

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1.5 "Reserve Amount" shall be the kilowatt (kW) amount of Contingency Reserves available to BPA by Alcoa specified in section 2 of this Exhibit.

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1.6 "Restricted Energy" means the requested megawatt-hour (MWh) amount of energy not made available to Alcoa hereunder because of an Event pursuant to section 2 of this Exhibit.

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2. AMOUNT AND TYPES RESERVES

When necessary to provide Contingency Reserves, BPA may restrict the Reserve Amount, or the requested portion thereof, for a period of time (Restricted Energy). The Reserve Amount shall equal the amount of Minimum DSI Operating Reserve – Supplemental specified in the 2010 GRSP, or its successor.

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Deleted: (in kilowatts)

Alcoa shall provide the Restricted Energy to BPA by an interruption of its loads in an amount equal to or greater than the amount of such specified Restricted Energy, and in each case shall continue such load interruption for the duration of the Event.

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The Parties recognize that with the addition of certain electronic controls at the Intalco Plant, the Intalco Load can be varied to help accommodate within-hour fluctuations on BPA's system associated with wind power generation. The Parties agree to undertake discussions within 60 days after the execution of this

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Agreement to identify and implement any agreed to actions and agreements necessary to achieve such wind integration benefits.

3. QUALITY AND CHARACTER OF RESERVES

Contingency Reserves provided by Alcoa shall be consistent with North American Electric Reliability Council (NERC), Western Electricity Coordinating Council (WECC), and Northwest Power Pool (NWPP) standards and criteria:

3.1 the Reserve Amount, or the requested portion thereof, must be offline within ten (10) minutes of an Event and pursuant to section 4 of this Exhibit;

3.2 the Reserve Amount, or the requested portion thereof, must be available to be offline for up to one-hundred five (105) minutes.

4. NOTIFICATION

Alcoa shall provide a contact at the Facility at the following phone number:

Alcoa Inc.
Phone: TBD

Alcoa shall maintain such contact for every hour in the Term of the Agreement in which the Minimum DSI Operating Reserve – Supplemental amount is greater than zero megawatts.

The Loads Scheduler will notify Alcoa of each contingency event, by means of a pre-programmed phone call or other electronic means. Within eight (8) minutes following the first such notice by the Loads Scheduler of an Event, Alcoa shall commence providing the Restricted Energy to BPA. Alcoa shall not restore its use of the Restricted Energy until the lesser of: (a) one-hundred five (105) minutes; or (b) immediately following notice from the Loads Scheduler terminating an Event.

5. VERIFICATION

PS retains the right to verify Alcoa’s provision of Restricted Energy by comparing the metered amounts before an Event, during an Event, and after an Event is terminated. If such verification fails to demonstrate that the Restricted Energy was made available to BPA by Alcoa for the Event Duration, then PS, in its sole discretion, may: (a) terminate the compensation specified in section 6 of this Exhibit for the undemonstrated portion of the Reserve Amount for the remaining Term of the Agreement; and, (b) notify TS of the undemonstrated portion of the Reserve Amount. Alcoa acknowledges that any undemonstrated portion of the Reserve Amount may cause its transmission supplier to take additional actions subject to the provisions of transmission service agreements Alcoa maintains with its transmission supplier, that may include an assessment of the monetary penalty described in the Failure to Comply provision of the prevailing TS tariff for transmission service.

6. COMPENSATION FOR CONTINGENCY RESERVES

Alcoa will be compensated by PS for Minimum DSI Operating Reserve - Supplemental provided in this Agreement through an adjustment to the IP rate determinants, as provided for in the Northwest Power Act.

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- Deleted: Alcoa will provide the Restricted Energy to BPA by an interruption of its loads in an amount equal to or greater than the amount of such specified Restricted Energy, and in each case shall continue such load interruption for the duration of the Event. BPA will bill and Alcoa shall pay for the Restricted Energy as though actually delivered to Alcoa. ¶
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- Deleted: . Depending on whether the event occurs less than 30 minutes past the delivery hour, or occurs greater than or equal to 30 minutes past the delivery hour either the TS scheduler or Alcoa's scheduling agent will adjust Alcoa's e-tags in real time. In both cases Alcoa's scheduling agent shall contact Alcoa at the
- Deleted: number in this section to: (a) initiate each Event; and (b) terminate each Event.
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BPA will bill and Alcoa shall pay for the Restricted Energy as though actually delivered to Alcoa.

7. RETURNED ENERGY

BPA must make any Restricted Energy during an Event available to Alcoa within 24 hours (“Returned Energy”) in mutually agreed flat hourly amounts and hours.

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Parties agree Returned Energy does not need to be scheduled during hours immediately following an Event and that the Returned Energy will likely be made available during Light Load Hours.

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BPA will not bill Alcoa for Returned Energy.

Scheduling of Returned Energy amounts scheduled will be in addition to federal power purchased pursuant to section 4 of the body of the Agreement. Alcoa shall be responsible for creating e-Tags and transmission required for the delivery of Returned Energy.

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8. TESTING OF RESERVES

BPA shall have the right to conduct tests of the procedure specified in this Exhibit.

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9. REVISIONS

BPA may unilaterally revise this Exhibit F to implement changes that are applicable to Alcoa and that BPA determines are reasonably necessary for reserves provided under this Agreement to: (a) reflect changes in the value of the DSI Reserves Adjustment; and (b) comply with requirements of the WECC, NAESB, or NERC, or their successors or assigns.

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Revisions are effective 45 days after BPA provides written notice of the revisions to Alcoa unless, in BPA’s sole judgment, less notice is necessary to comply with an emergency change to the requirements of the WECC, NAESB, NERC, or their successors or assigns. In this case, BPA shall specify the effective date of such revisions.

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**Exhibit G
EMPLOYMENT LEVELS**

1. DEFINITIONS

- 1.1 “Average Firm Power” means the average Firm Power during a period of time that is equal to the duration of the Initial Period, the Transition Period or the Second Period as the case may be.
- 1.2 “Average FTE” means the Average Initial Period FTE, the Average Transition Period FTE or the Average Second Period FTE, as the context requires.
- 1.3 “Average Initial Period FTE” means the average FTE, as determined pursuant to Table 1, in Section 2 below, reduced by ten percent, during the Initial Period.
- 1.4 “Average Transition Period FTE” means the average FTE, as determined pursuant to Table 1 in section 2 below, during the Transition Period.
- 1.5 “Average Second Period FTE” means the average FTE, as determined pursuant to Table 1 in section 2 below, during the Second Period.
- 1.6 “Firm Power” shall have the meaning ascribed to it in section 2.11 of the body of this Agreement.
- 1.7 “FTE” shall have the meaning ascribed to it in section 8 of the body of this Agreement.

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2. Relationship between Firm Power and FTE

For the avoidance of doubt, pursuant to this Exhibit G, Firm Power and FTE are proportional for the purposes of this Agreement, based on the amount of Firm Power Alcoa is consuming. As applicable and as described in Table 1 below, the proportion is 1.65 Average FTE per aMW of Average Firm Power:

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Table 1 - Proportional Relationship between Average Firm Power and Average FTE

Average Firm Power (aMW)	Average FTE	Proportional FTE
320	528	1.65
250	462	1.65
240	396	1.65
230	330	1.65
150	264	1.65
120	198	1.65
80	132	1.65
72	120	n/a
40	120	n/a
3	120	n/a

Average Firm Power (aMW)	Average FTE
320	
280	
240	
200	
160	
120	
80	
72	
40	
0	

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During periods of curtailment, the average of the reported monthly FTE shall be equal to or greater than 120.