

FIRM POWER SALES AGREEMENT
executed by the
BONNEVILLE POWER ADMINISTRATION
and
COLUMBIA FALLS ALUMINUM COMPANY, LLC

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This FIRM 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 COLUMBIA FALLS ALUMINUM COMPANY, LLC (CFAC), hereinafter individually referred to as “Party” and collectively referred to as the “Parties.” CFAC is a limited liability company organized under the laws of the State of Delaware.

RECITALS

BPA is authorized to sell power to CFAC, a direct service industrial customer, pursuant section 5(d) to the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. §§ 839 et seq.

BPA offers this power sale contract to CFAC based on the Administrator's record of decision (ROD) accompanying the offer of this contract. Such ROD also addresses comments regarding this Agreement following public review and comment and explains BPA's rationale for its decision to enter into this Agreement.

For administrative and decision making purpose, BPA has functionally separated its organization into two business lines, Power Services (PS) and Transmission Services (TS). This separation is solely for the purpose of clarifying which BPA function is responsible for specific activities, even when those activities require joint participation by both business lines.

The Parties agree:

1. **TERM**

This Agreement becomes effective and binding on the Parties as of the date signed by the Parties (Execution Date) and will terminate at 2400 hours on September 30 2016 (Termination Date). PS shall sell Firm Power and CFAC shall purchase such power, commencing April 1, 2012.

All liabilities or obligations incurred by each Party hereunder shall be preserved until satisfied, notwithstanding the expiration, cancellation, or termination of this Agreement, or any other event that may cause the Agreement to expire prior to the termination date referred to in the previous paragraph.

2. **DEFINITIONS**

Capitalized terms that are not listed below are either defined within the section in which the term is used or in BPA's applicable Wholesale Power Rate Schedules, including the General Rate Schedule Provisions (GRSPs).

2.1 "Alternative Scheduling Point of Receipt" shall have the meaning set out in Section 9.1.2

2.2 "Amounts Taken" means an amount deemed equal to the amount of power scheduled by CFAC.

2.3 "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.

2.4 "Balancing Authority Area" means the collection of generation, transmission, and loads within the metered boundaries of the Balancing Authority.

- 2.5 “Business Day” means every Monday through Friday except for federal holidays.
- 2.6 “Curtailed” shall mean that amount of Total Plant Load that CFAC elects to operationally reduce and for which CFAC submitted a request to reduce the amount of Firm Power purchased under this Agreement pursuant to section 5.
- 2.7 “Demand Entitlement” shall mean the Firm Power amounts made available by BPA to CFAC as established in section 4.
- 2.8 “Diurnal” means the division of hours within the month between Heavy Load Hours (HLH) and Light Load Hours (LLH).
- 2.9 “Equivalent Benefits” means benefits, as evaluated and determined by BPA in a record of decision, that are forecast to accrue to BPA as a result of selling Firm Power service to CFAC hereunder, that equal or exceed the forecast cost of selling such power, and that include, without limitation, receipt of revenues from the IP rate for sales to CFAC, reserves and other operational benefits, the benefits of CFAC’s waiver found in section 19.2 of this Agreement, and the value of CFAC’s covenant in section 20 of this Agreement.
- 2.10 “Firm Power” means the amount(s) of electric power that PS will make available at the IP rate to CFAC under this Agreement in equal hourly amounts for every hour of the Fiscal Year.
- 2.11 “Fiscal Year” means the period that begins each October 1 and which ends the following September 30. For instance Fiscal Year 2012 begins October 1, 2011, and continues through September 30, 2012.
- 2.12 “Hourly Preschedule of Firm Power” shall have the meaning described in Exhibit F.
- 2.13 “IP rate” means the Industrial Firm Power Rate contained in BPA’s 2012 Wholesale Power Rate Schedules, and each successor.
- 2.14 “Issue Date” shall have the meaning established in section 11.1.
- 2.15 “Ninth Circuit” or “Court” means the United States Court of Appeals for the Ninth Circuit.
- 2.16 “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.
- 2.17 “Point of Delivery” or “POD” means the point(s) specified in Exhibit E where power is transferred from a transmission provider to CFAC.

- 2.18 “Point of Metering” or “POM” means the Location at which power is measured as specified in Exhibit E.
- 2.19 “Points of Receipt” means the points in the Pacific Northwest transmission system where Firm Power is to be made available by PS to CFAC.
- 2.20 “Power Reserves” shall have the meaning of reserves provided by CFAC to BPA which include reserves provided by separate agreement or Minimum DSI Operating Reserve - Supplemental as defined in this Agreement and described in Exhibit C.
- 2.21 “Power Services” or “PS” means the organization, or its successor organization, within BPA that is responsible for the management and sale of federal power from the Federal Columbia River Power System.
- 2.22 “Prior Agreement” means Contract No. 06PB-11745 between BPA and CFAC, as amended.
- 2.23 “Purchase Deficiency” shall mean the amount of Curtailment specified in the Notice of Curtailment submitted by CFAC, as set forth in section 5.2.1.
- 2.24 “Region” means the definition established for “Region” in the Northwest Power Act (16 U.S.C. § 839a(14)).
- 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 “Term” means the period of time during which this Agreement shall be in effect, as set forth in section 1.
- 2.27 “Total Plant Load” means all electric power consumption including electric system losses, at CFAC’s production facilities in Columbia Falls, Montana as measured at Points of Metering. No distinction is made between load that is served with power under this Agreement and load that is served with electric power from other sources.
- 2.28 “Transmission Services” or “TS” means that portion of the BPA organization or its successor that is responsible for the management and sale of transmission service on the Federal Columbia River Transmission System (FCRTS).
- 2.29 “Wheel Turning Load” shall have the meaning described in the 2012 GRSP and, for the purpose of the Agreement, shall equal 3 aMW.

3. APPLICABLE RATES

Purchases under this Agreement are subject to BPA's Wholesale Power Rate Schedules, established in accordance with BPA's 7(i) rate proceeding, and its GRSPs (or their successors).

3.1 Industrial Firm Power (IP) Rates

CFAC's purchase of Firm Power specified in section 4 of the body of this Agreement and billing entitlements specified in Exhibit B (Billing) are subject to the IP-12 Rate Schedule, or its successor.

3.2 Additional Adjustments and Charges

CFAC is subject to any applicable additional adjustments or charges, including, without limitation, penalty charges (*e.g.*, the Unauthorized Increase Charge also noted in Exhibit B), established in BPA's Wholesale Power Rate Schedules and associated GRSPs.

4. PURCHASE AND SALE OF FIRM POWER

Effective April 1, 2012, and for the Term of this Contract BPA shall make available Firm Power in amounts equal to 140 average megawatts (aMW) and CFAC shall purchase such amounts of Firm Power on a take-or-pay basis. CFAC shall not displace, resell, or curtail its purchases of Firm Power under this Agreement, except for curtailments allowed in section 5.1

CFAC shall take and pay for 140 aMW of Firm Power from April 1, 2012 through December 31, 2012. Parties agree that if, in any calendar month during the period from April 1, 2012 through December 31, 2012, CFAC fails to purchase and use 140 aMW of Firm Power at its aluminum smelter in Columbia Falls, MT, then BPA may terminate this Agreement. In the event of termination under this Section 4, CFAC shall also be subject to take-or-pay damages for the period beginning with the hour that CFAC failed to purchase the 140 aMW referenced above through December 31, 2012. The amount of Firm Power not taken shall be deemed a Purchase Deficiency and the amount of such damages will be determined by BPA utilizing the procedure described in section 5.2.2.2 of the Agreement.

5. CURTAILMENT

5.1 Curtailment

After December 31, 2012, CFAC may curtail Total Plant Load in whole or in part. In the event CFAC determines to operationally reduce or curtail its Total Plant Load, any non-BPA power supply being used by CFAC to serve such load shall be reduced or withdrawn prior to any reduction in the amount of Firm Power sold under this Agreement. If, after all other power supply has been reduced or withdrawn, CFAC curtails additional Total Plant Load served by Firm Power under this Agreement, then CFAC may request take-or-pay mitigation, if applicable, pursuant to sections 5.2 through 5.3 below for purchases of Firm Power it is obligated to make under the first sentence of section 4.

5.2 Take-or-Pay Mitigation for Curtailment

5.2.1 Notice of Curtailment

CFAC shall provide notice to PS at least 60 days in advance of any Curtailment. Such notice shall specify the amount of Total Plant Load that CFAC elects to operationally reduce, the duration of the reduction, and the amount of Firm Power that CFAC will not purchase for that duration (Purchase Deficiency). Such notice shall also represent that any power purchased to be used in connection with CFAC operations has been or will be reduced or withdrawn prior to any reduction in the amount of Firm Power provided pursuant to this Agreement. The election to reduce such Firm Power, and the amount and duration of such reduction, may not be changed without BPA's written consent.

5.2.2 Limitation on Damages

For each month including any Purchase Deficiency, CFAC shall pay PS damages equal to the amount by which the reasonable market value of such Purchase Deficiency is less than the value of the Firm Power sale at the IP-12 Rate, or its successor, including any reserve credit. PS shall calculate the reasonable market value for each month including a Purchase Deficiency. Reasonable market value and calculation of damages shall be determined by the method described in either sections 5.2.2.1 or 5.2.2.2 below. If CFAC satisfies its obligations pursuant to section 5.2.2.1, then the reasonable market value shall be calculated pursuant to that section, otherwise BPA shall determine the reasonable market value pursuant to section 5.2.2.2.

5.2.2.1 No later than three (3) Business Days prior to the commencement of a curtailment under this section 5.2, CFAC may obtain one or more transactable quotes for all or a portion of such Purchase Deficiency from a third party acceptable to BPA. The transactable quote(s) must match the length of the curtailment for the Purchase Deficiency in the Firm Power to be made available at Points of Receipt. Each quote shall be deemed equal to the reasonable market value of such Firm Power to which the quote applies for the purpose of calculating damages under this section 5.2.2. PS may, at its sole option, resell the curtailed Firm Power to the third party, retain the Firm Power, or dispose of the Firm Power as it may otherwise choose. CFAC shall allow PS at least four (4) hours during normal business hours to decide whether or not to transact under such quote.

It is agreed by the Parties that BPA shall not be obligated to enter into replacement transactions in order to determine or collect damages under this section 5.2.2.

5.2.2.2 In the event PS does not receive a transactable quote as described in section 5.2.2.1, PS shall determine, by any reasonable method, the reasonable market value of the portion of each monthly Purchase Deficiency for which CFAC has not obtained a transactable quote. The reasonable market value shall be adjusted to reflect volume and BPA transmission costs associated with remarketing each such portion of the monthly Purchase Deficiency, regardless of whether each such portion is actually remarketed.

5.3 **Take-or-Pay Mitigation Payment**

5.3.1 **Monthly Determination**

In each applicable month including a Purchase Deficiency, PS shall bill CFAC and CFAC shall pay damages equal to the amount by which, the product of the Purchase Deficiency and the applicable IP rate, including any reserve credit for the duration of the Purchase Deficiency in that month, exceeds the product of Purchase Deficiency and the reasonable market value as determined pursuant to sections 5.2.2.

5.3.2 **End of Period True Up**

Each Fiscal Year BPA shall, no later than 60 days following the end of any Fiscal Year, compute the sum of: (1) the amounts paid by CFAC to BPA for Purchase deficiencies during the previous Fiscal Year, and (2) the amount by which the reasonable market value for any other Purchase Deficiency during the past Fiscal Year. If this sum exceeds the total of CFAC's Purchase Deficiency payments for the previous Fiscal Year, BPA will credit the excess against the amounts CFAC owes BPA.

CFAC may request such credit be held by BPA to be applied to future year Purchase Deficiencies.

6. **POWER RESERVES**

6.1 **Power Reserves**

CFAC shall provide Supplemental Contingency Reserves in a manner consistent with the Minimum DSI Operating Reserve - Supplemental as specified in Exhibit C.

6.2 **Additional or Alternative Arrangements for Power Reserves**

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

7. EMPLOYMENT LEVELS

CFAC will 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 CFAC at the Columbia Falls smelter and CFAC contractor employees working within Flathead County, Montana during any calendar month during which this Agreement is in effect.

CFAC shall notify BPA in writing in the event that, during any calendar month, FTE levels, as defined in Exhibit G, 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 and shall include a plan specifying the date by which FTE levels will equal or exceed the applicable level specified in Exhibit G. Such plan shall demonstrate that CFAC shall meet FTE requirements within 90 days following the end of the month during which such FTE levels fell below the 1 percent threshold. In order to permit BPA to determine whether CFAC is meeting its plan to meet FTE obligations, CFAC shall provide monthly reports to BPA demonstrating its FTE by month and showing that its FTE levels meet the requirements of this section 7 within 15 days following the end of the month for which it is reporting. This Agreement is subject to termination by BPA in the event CFAC (a) fails to provide BPA with the written plan required by this section following notice that employments levels have been reduced beyond one percent of the FTE requirements specified in Exhibit G or (b) fails to comply with such plan for meeting the applicable FTE levels specified in Exhibit G. In the event that CFAC fails to provide the written plan, termination shall be effective 30 days following the date on which CFAC was required to provide such plan. In the event that CFAC fails to comply with its plan for reaching FTE levels, BPA may provide notice of termination within 30 days following the monthly notice provided in this section 7 and the effective date of termination shall be 90 days following the date such notice is received by CFAC.

8. SCHEDULING

All power transactions under this Agreement shall be scheduled and implemented consistent with Exhibit F, Scheduling.

9. DELIVERY

9.1 Definitions

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

9.1.2 “Scheduling Points of Receipt” and “Alternate Scheduling Points of Receipt” means the points on the Pacific Northwest transmission system where Firm Power is made available by PS to CFAC for purposes of transmission scheduling.

9.2 Transmission Service

- 9.2.1 CFAC is responsible for making arrangement for, and payment for, delivery of Firm Power from the Scheduling Points of Receipt, including all transmission and ancillary service costs except for transmission losses described in section 9.4.
- 9.2.2 CFAC shall obtain prior BPA approval for, and shall provide at least 60 days' notice, in writing, to PS prior to changing Balancing Authority Areas.
- 9.2.3 At CFAC's request, PS shall provide CFAC with Primary Points of Receipt and other information needed to enable CFAC 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 PS shall provide CFAC with Scheduling Points of Receipt. PS has the right to provide Firm Power to CFAC at Scheduling Points of Receipt that are different than the Primary Points of Receipt. If BPA does provide Firm Power to CFAC at Scheduling Points of Receipt that are different than the Primary Points of Receipt, then BPA shall reimburse CFAC for any incremental, direct, non-administrative costs incurred by CFAC to comply with delivering Firm Power from such a Scheduling Point of Receipt to the BPA POD listed in Exhibit E if the following conditions, as outlined in 9.2.3.1 or 9.2.3.2 below, as applicable, have been met:
- 9.2.3.1 If CFAC 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:
- 9.2.3.1.1 CFAC has requested long-term firm transmission service to deliver its Firm Power using the Primary Points of Receipt and other information provided by PS;
- 9.2.3.1.2 CFAC 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
- 9.2.3.1.3 CFAC's transmission schedule was curtailed due to non-firm status under PTP transmission service or CFAC can provide proof of the reimbursable costs incurred to replace the curtailed schedule.

9.2.3.2 If CFAC has long-term Network Integration Transmission Service (as defined in BPA’s Open Access Transmission Tariff) for delivery of Firm Power to its load:

9.2.3.2.1 CFAC has requested long-term firm transmission service to deliver its Firm Power using the Primary Points of Receipt and other information provided by PS; and

9.2.3.2.2 CFAC’s transmission schedule was curtailed due to non-firm status under its secondary service status and CFAC can provide proof of the reimbursable costs incurred to replace the curtailed schedule.

9.2.3.3 In the event Firm Power cannot be scheduled from a BPA Scheduling Point of Receipt (other than a Primary Point of Receipt) then CFAC 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 CFAC’s load (“Alternative Scheduling Point of Receipt”), if such a point is available and providing the power from that Alternative Scheduling Point of Receipt would not cause BPA to violate any type of non-power constraint.

9.3 Liability for Delivery

CFAC waives any claims against BPA arising under this Agreement for non-delivery of Firm Power to any points beyond the applicable Scheduling Points of Receipt, except for reimbursement of costs as described in section 9.2.3. BPA shall not be liable under this Agreement for any third-party claims related to the delivery of Firm 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.

9.4 Real Power Losses

BPA is responsible for the real power losses necessary to deliver Firm Power across the Federal Columbia River Transmission System to the BPA POD listed in Exhibit E.

10. METERING

CFAC’s purchase obligations in section 4 are dependent on amounts scheduled and do not require load meter measurements for billing and payment. However, PS may require load meter measurements for forecasting, planning and verification purposes.

11. BILLING AND PAYMENT

11.1 Billing

BPA shall bill CFAC monthly for all products and services made available or provided during the preceding month(s). BPA may send CFAC an estimated bill followed by a final bill. The Issue Date is the date BPA electronically sends the bill to CFAC. 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.

11.2 Payment

CFAC 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 CFAC has made payment on an estimated bill then:

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

11.2.2 if the amount of the final bill is less than the amount of the estimated bill, then BPA shall pay CFAC 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.

11.3 Late Payments

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

11.3.1 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 four percent, divided by 365; or

11.3.2 the Prime Rate times 1.5, divided by 365;

shall be applied each day to any unpaid balance, and shall be due and owing by CFAC.

11.4 Termination

If CFAC 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, including late payment charges. If CFAC 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 CFAC is unable to make the payments owed, then BPA may terminate this Agreement. Termination shall not relieve CFAC of its

payment and other obligation under this Agreement. Written notices sent under this section 11.4 must comply with section 13.

11.5 Disputed Bills

11.5.1 If CFAC disputes any portion of a charge or credit on CFAC's estimated or final bills, CFAC 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, CFAC shall pay the entire bill by the Due Date. This section 11.5.1 does not allow CFAC to challenge the validity of any BPA rate.

11.5.2 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.

11.5.3 If the Parties agree, or if after a final determination of a dispute pursuant to section 15, CFAC 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.

12. INFORMATION EXCHANGE AND CONFIDENTIALITY

12.1 General Requirements

Upon request, each Party shall provide the other Party with any information that is necessary to administer this Agreement, and to forecast CFAC Load, forecast BPA system load, comply with North American Electric Reliability Corporation (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 12.1 shall be provided in a timely manner.

12.2 Reports

If requested by BPA, CFAC shall provide annual financial reports and any similar statements made by CFAC or its parent company to BPA either by e-mail at kslf@bpa.gov or at the address specified in section 13, Notices and Contact Information.

12.3 Meter Data

CFAC consents to allow PS to receive CFAC's meter data from Transmission Services or BPA's metering function required to administer or verify performance under this Agreement.

12.4 Confidentiality

Before CFAC provides information to BPA that CFAC deems to be confidential, commercial or financial information, CFAC shall clearly designate such information as confidential. BPA shall notify CFAC 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 CFAC. 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.

13. 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:

- 13.1 delivered in person;
- 13.2 by a nationally recognized delivery service with proof of receipt;
- 13.3 by United States Certified Mail with return receipt requested;
- 13.4 electronically, if both Parties have means to verify the electronic notice's origin, date, time of transmittal and receipt; or
- 13.5 by another method agreed to by the Parties.

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 CFAC:

Columbia Falls Aluminum Company,
LLC

Attn:

Phone:
FAX:
E-Mail:

If to BPA:

Bonneville Power Administration
905 NE 11th Avenue
P.O. Box 3621
Portland, OR 97208
Attn: Mark E. Miller
Account Executive
Phone: 503-230-4003
FAX: 503-230-3681
E-Mail: memiller@bpa.gov

14. 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:

- 14.1 any unplanned curtailment or interruption of firm transmission service used to deliver Firm Power sold under this Agreement to CFAC whether such curtailment or interruption occurs on BPA’s or a third party’s transmission system;
- 14.2 any failure of CFAC's production, distribution or transmission facilities that prevents CFAC from taking Firm Power delivered to the Point of Receipt;
- 14.3 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;
- 14.4 floods, earthquakes, or other natural disasters; terrorist acts; and
- 14.5 final orders or injunctions issued by a court or regulatory body having competent subject matter 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 13, Notices and Contact Information.

15. GOVERNING LAW AND DISPUTE RESOLUTION

This Agreement shall be interpreted consistent with and governed by federal law. CFAC 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 15 the Parties reserve their rights to individually seek judicial resolution of any dispute arising under this Agreement.

Notwithstanding anything to the contrary in this section 15, any decision by BPA designated in this Agreement as being conclusive and binding on CFAC shall not be subject to challenge by CFAC.

15.1 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 CFAC 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 15 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.

15.2 Arbitration

Any contract dispute or contract issue between the Parties arising out of this Agreement, which is not excluded by section 15.1 above, shall be subject to arbitration, as set forth below.

CFAC may request that BPA engage in binding arbitration to resolve any dispute. If CFAC 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 15.2 and sections 15.3 and 15.4 are met. BPA may request that CFAC engage in binding arbitration to resolve any dispute. In response to BPA's request, CFAC may agree to binding arbitration of such dispute, provided that the remaining requirements of this section 15.2 and sections 15.3 and 15.4 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.

15.3 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.

15.4 Arbitration Remedies

The payment of monies shall be the exclusive remedy available in any arbitration proceeding pursuant to this section 15. This requirement 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.

15.5 Finality

15.5.1 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.

15.5.2 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.

15.6 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.

16. STATUTORY PROVISIONS

16.1 Prohibition on Resale

CFAC shall not resell Firm Power purchased from BPA under this Agreement (Bonneville Project Act of 1937, 16 U.S.C. § 832d(a) (2006)).

16.2 BPA Appropriations Refinancing

The Parties agree that the provisions of section 3201(i) of the Bonneville Power Administration Refinancing section of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (BPA Refinancing Act), P.L. 104-134, 110 Stat. 1321, 350, as stated in the United States Code on the

Effective Date, are incorporated by reference and are a material term of this Agreement.

17. STANDARD PROVISIONS

17.1 Amendments

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

17.2 Entire Agreement and Order of Precedence

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

17.3 Assignment

With BPA's consent, which shall not be unreasonably withheld, CFAC 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 CFAC's facilities that are served, in whole or in part, with Firm Power provided under this Agreement, 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 CFAC is permitted.

17.4 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.

17.5 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.

17.6 BPA Policies

Any reference in this Agreement to BPA policies, including any revisions, does not constitute agreement of CFAC to such policy by execution of this Agreement, nor shall it be construed to be a waiver of the right of CFAC to

seek judicial review of any such policy.

17.7 Severability

If any term of this Agreement is found to be invalid by a court of competent jurisdiction then such term shall remain in force to the maximum extent permitted by law. All other terms shall remain in force unless that term is determined not to be severable from all other provisions of this Agreement by such court.

17.8 Corporate Guarantee

Notwithstanding anything in this Agreement to the contrary, CFAC shall provide BPA with a corporate guarantee issued by Glencore Inc on behalf of CFAC. The corporate guarantee shall be absolute and shall guarantee all obligations of CFAC to BPA arising during the term of the Agreement and shall be in a form substantially similar to the form of guarantee attached hereto as Exhibit A. Such corporate guarantee must take effect no later than March 26, 2012.

17.9 Performance Assurance

If BPA determines that there are grounds for insecurity with respect to the ability or willingness of the guarantor specified in section 17.8 to meet its guarantee obligations (including its potential obligations under the guarantee), BPA may in writing demand that CFAC provide adequate assurance of due performance of its obligations under this Agreement in the form of a letter of credit that is (i) in a commercially reasonable form acceptable to BPA, (ii) from a financial institution that is rated by both Moody's and Standard & Poor's (or their respective successors) and that is rated no lower than A3 by Moody's and A- by Standard & Poor's and, (iii) in the amount of \$13,000,000, or such other lesser amount as shall cover CFAC's remaining obligations to BPA under this Agreement during the then-remaining term of this Agreement. Failure of CFAC to provide such letter of credit by the end of the third full Business Day after receipt of BPA's demand shall be a material breach of this Agreement and, notwithstanding any provision to the contrary in the Agreement, BPA shall have the right in its sole discretion (until such time as a letter of credit meeting the provisions above is provided to BPA) to suspend its performance under or terminate this Agreement. Any waiver by BPA of its right to suspend or terminate this Agreement shall not be considered a waiver of said rights with respect to future instances when adequate assurance may be required. Written notices sent under this section must comply with section 13, Notices and Contact Information.

17.10 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 for any reason, 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 is severable and, also, shall survive the termination of this Agreement, including any termination effected through any order described herein.

17.11 **Waiver of Right to Challenge to REP Settlement**

CFAC waives any right to challenge the validity of the Residential Exchange Program Settlement or to challenge the validity of the IP rate, or the level of the IP Rate, based on arguments pertaining to the Residential Exchange Program Settlement or cost allocations associated with the implementation thereof.

18. **TERMINATION**

18.1 BPA may terminate this Agreement if:

18.1.1 CFAC fails to cure non-payment as required by section 11.4;

18.1.2 CFAC fails to provide performance assurance satisfactory to BPA as required by section 17.8;

18.1.3 CFAC fails to maintain employment levels as required by section 7; or

18.1.4 In the event of any material breach of the Agreement by CFAC.

Such termination is without prejudice to any other remedies available to BPA under law, and in no way relieves CFAC of its obligation to pay BPA damages.

19 **PRIOR AGREEMENT**

19.1 **Termination of Prior Agreement**

The Prior Agreement, as amended, shall terminate at 2400 hours on September 30, 2011 according to its terms. Except as provided in section 19.2, such termination shall not relieve either party of any liabilities, if any, incurred under or as a consequence of the Prior Agreement.

19.2 **Waiver of Claims Under Prior Agreement**

February 18, 2011 BPA issued 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 determined that no payments are owed by CFAC to BPA or by BPA to CFAC. CFAC agrees to waive 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 CFAC 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.

20. CFAC COVENANTS

20.1 CFAC Covenant Not to Challenge Validity of this Agreement

CFAC agrees that it shall not challenge the validity of this Agreement or any determination regarding Equivalent Benefits or BPA's Forecast Net Cost determinations, in any proceeding before the Ninth Circuit or elsewhere, but CFAC 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.

20.2 CFAC 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 section 4 of this Agreement, CFAC will make no additional request for power from BPA, whether Surplus Firm Power or otherwise; provided, further, that during such period CFAC 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 CFAC 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 as a result of such order or opinion the covenant and waivers, in this section 20.2, shall not apply to the period following such termination.

21. SIGNATURES

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

COLUMBIA FALLS ALUMINUM
COMPANY, LLC

UNITED STATES OF AMERICA
Department of Energy
Bonneville Power Administration

By _____

By _____

Name _____
(Print/Type)

Name _____
(Print/Type)

Title _____

Date _____

Title _____

Date _____

Exhibit A
CORPORATE GUARANTEE

[Example To Be Inserted]

Exhibit B
BILLING PARAMETERS

1. FIRM POWER ENTITLEMENTS

1.1 Energy Billing Determinant

The MW amount made available by BPA under this Agreement multiplied by: (1) the number of HLH, and (2) the number of LLH for the applicable month shall establish CFAC's HLH and LLH energy billing determinates.

The total monthly charge for energy shall equal the sum of i) The product of CFAC's HLH Energy Entitlement and the HLH Energy Rate specified in Schedule IP-12, or its successor; and ii) The product of CFAC's LLH Energy Entitlement and the LLH Energy Rate in Schedule IP-12, or its successor.

1.2 Demand Billing Determinant

The monthly demand billing determinant shall be calculated as defined in Schedule IP-12, or its successor.

The monthly charge for demand shall be the product of the demand billing determinate determined herein, and the appropriate Demand Rate specified in Schedule IP-12, or its successor.

2. UNAUTHORIZED INCREASE CHARGE

Hourly Firm Power scheduled by CFAC, under this Agreement, in excess of amounts specified in section 4 of the body of the Agreement 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 revise this exhibit so that it is consistent.

Exhibit C
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 of a system disturbance, and the PS Loads Scheduler will notify CFAC that Restricted Energy is required. The end of the Event shall occur the earlier of when: a) BPA has notified CFAC that full service may be restored; or b) 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.
- 1.2 “Event Duration” shall be the total cumulative Event Minutes of the Event.
- 1.3 “Event Minute” shall be the minutes of restriction (or any portion thereof) during an Event.
- 1.4 “Contingency Reserves” are the Minimum DSI Operating Reserve – Supplemental specified in the 2012 GRSPs, or its successor – and are provided by CFAC 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.
- 1.5 “Reserve Amount” shall be the kilowatt (kW) amount of Contingency Reserves available to BPA by CFAC specified in section 2 of this Exhibit.
- 1.6 “Restricted Energy” means the requested megawatt-hour (MWh) amount of energy not made available to CFAC hereunder because of an Event pursuant to section 2 of this Exhibit.

2. AMOUNT AND TYPES OF 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 during each hour shall equal the lesser of: i) 14,000 kilowatts, or ii) 10 percent of the Amounts Taken rounded up to the next whole MW, consistent with the amount of Minimum DSI Operating Reserve – Supplemental specified in the 2012 GRSPs, or its successor.

CFAC 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.

3. QUALITY AND CHARACTER OF RESERVES

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

- 3.1 the Reserve Amount, or the requested portion thereof, must be offline by the full amount within ten (10) minutes of the Event and pursuant to section 4 of this Exhibit;
- 3.2 the Reserve Amount, or the requested portion thereof, must be made available in whole for up to one-hundred five (105) minutes.

4. NOTIFICATION

CFAC shall provide a contact at its facility at the following phone number:

CFAC
Phone: xxxx

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

During an Event, CFAC shall call the BPA Loads Desk at the following number if CFAC has questions or concerns about a request from BPA to deploy reserves under this contract.

BPA Real-Time Loads Desk
Phone: (503) 230-3341

5. VERIFICATION

PS retains the right to verify CFAC’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 of the Restricted Energy fails to demonstrate that the Reserve Amount was made available to BPA by CFAC for the Event Duration, then PS, in its sole discretion, may: (a) reduce 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. CFAC 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 CFAC maintains with its transmission supplier, that may include but may not be limited to an assessment of the monetary penalty described in the Failure to Comply provision of the prevailing TS tariff for transmission service, or the assessment of a strike(s) consistent with the process applicable to a Supplier providing reserves for a third party customer described in section 5.11 through 5.14 of the Operating Reserves, V6 Business Practice, or its successor, implementing the TS Open Access Transmission Tariff, or its successor..

6. COMPENSATION FOR CONTINGENCY RESERVES

Compensation by PS to CFAC for providing Minimum DSI Operating Reserve - Supplemental pursuant to this Agreement is through an adjustment to the IP rate determinants applied during a 7(i) rate making proceeding, as provided for in the Northwest Power Act, provided, however, such compensation may be terminated pursuant to section 5 of this Exhibit.

7. RESTRICTED ENERGY RETURN

In lieu of BPA returning any Restricted Energy provided to BPA, BPA will provide CFAC a credit equal to the product of the amount of Restricted Energy and the appropriate IP rate. Such credit shall be calculated by BPA and included on CFAC's monthly final bill. Restricted Energy shall be treated as taken by CFAC for purposes of meeting its take-or-pay commitment under section 4 of the body of the Agreement.

8. TESTING OF RESERVES

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

9. REVISIONS

BPA may unilaterally revise this Exhibit C to implement changes that are applicable to CFAC 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 adopted in a 7(i) rate making proceeding; and (b) 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 CFAC 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 D
ADDITIONAL PRODUCTS, SERVICES, AND SPECIAL PROVISIONS

1. REVISIONS

This exhibit shall be revised as necessary by mutual agreement of the Parties to reflect additional special provisions during the Term.

**Exhibit E
METERING**

1. METERING

Directly Connected Points of Delivery

BPA POD Name: Conkelley 13.8 kV;
BPA POD Number: 3369
WECC Balancing Authority: BPAT;

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

Voltage: 13.8 kV;

Metering: in BPA's Conkelley Substation in the 13.8 kV circuit over which such electric power flows;

- (A) **BPA Meter Point Name:** Conkelley #1 Out;
BPA Meter Point Number: 436;
Direction for Billing Purposes: Not used for billing;
Manner of Service: Direct, BPA to CFAC;
- (B) **BPA Meter Point Name:** Mainbuild Out;
BPA Meter Point Number: 329;
Direction for Billing Purposes: Not used for billing;
Manner of Service: Direct, CFAC to BPA;

Metering Loss Adjustment: BPA shall adjust for losses between the POD and the Conkelley #1 Out point of metering. Such adjustments shall be specified in writing between BPA and CFAC;

Exception: None.

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 F
SCHEDULING

1. SCHEDULING FEDERAL RESOURCES

All Firm Power deliveries shall be prescheduled. Any hourly changes to preschedules of Firm Power must be submitted by CFAC to PS in whole megawatts (MW) for each hour no later than 11 a.m. (1100) PPT in accordance with the WECC Preschedule Calendar for the Preschedule Day. Hourly preschedules shall be communicated by CFAC to BPA Preschedule by entry of the schedule in BPA Scheduling Portal or e-mail at:

BPA Scheduling Portal: <https://TBD>
E-mail: presched@bpa.gov

Additional BPA Preschedule Contact Information

Preschedule Desk Phone: (503) 230-3813
Preschedule Facsimile: (503) 230-3039

CFAC is responsible for creating E-Tags for all deliveries of federal power purchased under this Agreement. In the event of an unplanned outage that affects future hours, CFAC 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.

CFAC shall provide PS a contact person who is available to contact 24 hours, 7 days a week at the following phone number.

CFAC
Phone: xxxxx

In the event that CFAC requires a real-time change to the Hourly Preschedule of Firm Power CFAC may request the change by contacting the BPA Real Time Loads Desk at the following number or by changing the schedule in BPA Scheduling Portal. All real time changes shall be submitted by XX:30 prior to the next scheduling hour

BPA Real-Time Loads Desk
Phone: (503) 230-3341

2. AFTER THE FACT

BPA and CFAC 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 CFAC shall verify all transactions per this Agreement, as to product or type of service, hourly amounts, daily and monthly totals, and related charges.

BPA After the Fact Desk

Phone: (503) 230-3949

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 CFAC 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 G
EMPLOYMENT LEVELS**

1. DEFINITIONS

- 1.1 “Average Firm Power” means the average Firm Power each month.
- 1.2 “Firm Power” shall have the meaning ascribed to it in section 2.9 of the body of this Agreement.
- 1.3 “FTE” shall have the meaning ascribed to it in section 7 of the body of this Agreement.

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 CFAC is consuming. As applicable the FTE proportion per aMW of Average Firm Power is as described below:

Proportional Relationship between Average Firm Power and FTE	
Average Firm Power	FTE
140	231
105	174
70	116
35	58
6	na
3	na