

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (this “MOA”) is entered into as of December 23, 2011, effective as of the Effective Date (as defined below), by and between the State of Washington, acting through and by Governor Christine Gregoire (the “State”), and TransAlta Centralia Generation LLC, a Washington limited liability company (the “Company” and, together with the State, each a “Party” and together, the “Parties”).

RECITALS

- A. The Company owns and operates a 1,340 megawatt coal-fired baseload electric generating facility in Centralia, Washington (the “Facility”), which utilizes two coal-fired generating boilers (each, a “Boiler” and together, the “Boilers”).
- B. Pursuant to RCW 80.80.100, the Governor, on behalf of the State, has been directed to enter into a memorandum of agreement with owners of certain coal-fired facilities in the State of Washington, including the Facility.
- C. In order to implement RCW 80.80.100, the Parties desire to memorialize their understanding with respect to certain emissions reductions, installation of selective noncatalytic reduction pollution control technology (“SNCR”), the provision of financial assistance with respect to economic development and the funding of certain energy technologies and certain other matters, in each case subject to the terms and conditions set forth herein.
- D. In exchange for the benefits of entering into an MOA with the State pursuant to RCW 80.80.100, the Company will, among other things, (1) at the direction of the State, make certain payments into independent accounts to be held at an appropriate financial institution (the “Account Agent”), an appropriate financial institution within the meaning of RCW 80.80.100, for the provision of financial assistance as set forth in Section 3 of this MOA, (2) pay Interest Tax Liability (as defined in Section 3(b) below), (3) establish, with the State, boards to approve grants from such independent accounts, (4) install SNCR technology and (5) permanently cease power generation operations of one Boiler in 2020 and the other Boiler in 2025, which dates are prior to the 2035 end of their expected useful lives, in each case pursuant to the terms and subject to the conditions of this MOA.
- E. In exchange for the benefits of entering into an MOA with the Company pursuant to RCW 80.80.100, the State will, among other things, (1) establish air emission requirements based on the use of SNCR, (2) establish, with the Company, boards to approve grants from such independent accounts, (3) recognize investments by the Company in emissions reductions and confirm that based upon early retirement of the Boilers, Facility power is a climate responsible transition product that will substantially contribute to the state meeting its climate change policies and achieve the greenhouse gas reductions in RCW 70.235.020(1)(a),

(4) confirm that Facility power is a product that meets the greenhouse gas emissions performance standards of the State, (5) permit entry into long-term power contracts for the sale of electricity, (6) provide certainty regarding environmental requirements that affect power generation operations, and (7) provide certainty regarding sales and use tax exemptions, in each case pursuant to the terms and subject to the conditions of this MOA.

NOW, THEREFORE, in consideration of the mutual benefits to be derived herefrom, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Effective Date; Term. This MOA shall be effective on April 1, 2012 (the “Effective Date”). Unless terminated pursuant to the terms of Section 8, this MOA shall terminate upon the later to occur of (i) December 31, 2025, or (ii) the disbursement of all amounts deposited in the Accounts pursuant to the terms of the Account Agreement and Section 4.

2. Incorporation by Reference. The provisions of RCW 80.80.040, RCW 80.80.060 and RCW 80.80.070, in each case as in effect on July 22, 2011, are hereby incorporated herein by reference.

3. Company Contribution of Financial Assistance.

(a) Beginning January 1, 2012 and ending December 31, 2023, or until the full amounts set forth in Section 3(b) have been provided, the Company shall make annual payments by wire transfer of immediately available funds to the following independent accounts maintained by the Account Agent on behalf of the Company in the following amounts (in each case, less Interest Tax Liability incurred with respect to amounts in such accounts during the previous year pursuant to the terms of Section 3(b)):

(i) \$833,333.33 annually to an account established to fund energy efficiency and weatherization for the residents, employees, businesses, non-profit organizations and local governments within Lewis County and South Thurston County, Washington, from which Grants (as defined herein) are to be made pursuant to the terms of the Account Agreement and Section 4 (the “Weatherization Fund”), of which an aggregate amount of up to \$1,000,000, calculated over the life of the Weatherization Fund, shall be allocated to fund residential energy efficiency and weatherization measures for low-income and moderate-income residents of Lewis County and South Thurston County, Washington;

(ii) \$1,666,666.67 annually to an account established to fund education, retraining, economic development, and community enhancement, from which Grants are to be made pursuant to the terms of the Account Agreement and Section 4 (the “Economic and Community Development Fund”), of which an

aggregate amount of at least \$5,000,000, calculated over the life of the Economic and Community Development Fund, shall be allocated to fund education, retraining and economic development specifically targeting the needs of workers displaced from the Facility; and

(iii) \$2,083,000.33 annually to an account established to fund energy technologies with the potential to create considerable energy, air quality, haze or other environmental benefits located in or otherwise to the benefit of the State of Washington, from which Grants are to be made pursuant to the terms of the Account Agreement and Section 4 (the “Energy Technology Fund” and, together with the Weatherization Fund and the Economic and Community Development Fund, the “Accounts”).

The Company shall pay such amounts for each calendar year on or before December 31 of such calendar year. Pursuant to the terms of Section 4, grants of funds from the Accounts (each, a “Grant”) shall be made in accordance with the purpose for each such Account as set forth in Sections 3(a)(i) through 3(a)(iii) (“Proper Grant Purposes”).

(b) In connection with the execution of this MOA and the transactions contemplated hereby, and prior to the date that any amounts are deposited in the Accounts pursuant to Section 3(a), the Company shall execute an agreement with the Account Agent governing the terms of the Accounts and disbursements therefrom (the “Account Agreement”), but only after the Company has provided the Office of the Governor the opportunity to review the Account Agreement and the Office of the Governor consents to the terms of the Account Agreement. The terms of the Account Agreement shall be consistent with and in furtherance of the terms of this MOA and RCW 80.80.100, and shall include a requirement that the disbursement of Grants from the Accounts be conditioned upon the Account Agent’s receipt of a written resolution of a Supermajority of the applicable Grant Review Board in accordance with Section 4(h), a requirement that funds be invested in low-risk investment alternatives designed to preserve principal, the assumption by the Company of all Income Tax Liability associated with the Accounts in accordance with Section 3(c) and a term of years coextensive with this MOA.

(c) The Company shall assume the obligation to pay taxes on interest and gains on all funds deposited in the Accounts (the “Interest Tax Liability”). Notwithstanding anything to the contrary in this Section 3, the amount of Interest Tax Liability incurred by the Company shall reduce the amount of payments to the applicable Account required by Sections 3(a)(i) through 3(a)(iii), as a result of which (i) the maximum contribution to the Weatherization Fund by the Company under this MOA shall not exceed an amount equal to \$10,000,000 minus any Interest Tax Liability incurred with respect to funds in the Weatherization Fund, (ii) the maximum contribution to the Economic and Community Development Fund by the Company under this MOA shall not exceed an amount equal to \$20,000,000 minus any Interest Tax Liability incurred with respect to funds in the Economic and Community Development Fund, and (iii) the maximum contribution to the Energy Technology Fund by the Company under this MOA shall not exceed an amount equal to \$25,000,000 minus any Interest Tax Liability incurred with respect to funds in the Energy Technology Fund. All interest and gains earned on funds deposited in any Account shall remain in such Account and shall constitute additional funds

from which Grants may be made, with no corresponding offset or deduction other than as set forth in the immediately preceding sentence.

(d) All fees and expenses of the Account Agent payable pursuant to the Account Agreement or otherwise shall be paid out of funds in the Accounts. Other than payments made from the Account as set forth in this Section 3, neither Party shall have any liability for fees or expenses of the Account Agent with respect to the Accounts under this MOA, the Account Agreement or otherwise.

4. Grant Review Board; Authorization of Expenditures

(a) No later than July 1, 2012, the Parties agree to establish three boards (together, the "Grant Review Boards"), each of which will have the authority to approve Grants from one Account in accordance with Proper Grant Purposes and the provisions of this Section 4.

(b) Initial Composition of Grant Review Boards. The Grant Review Boards shall initially consist of members (the "Board Members") as set forth below; provided that each Board Member shall have legal, financial, energy or other experience relevant to his or her service on such Grant Review Board, as determined by the Party authorized to designate such Board Member pursuant to this Section 4(b) in such Party's reasonable discretion:

(i) The Grant Review Board with the authority to approve Grants from the Weatherization Fund (the "Weatherization Board") shall consist of the following Board Members:

- (A) one member selected by the Lewis County Economic Development Council;
 - (B) one member selected by the United Way of Lewis County;
 - (C) one elected commissioner of the Lewis County Public Utility District, selected by the District;
 - (D) one member selected by Centralia City Light;
 - (E) one member selected by the NW Energy Coalition;
 - (F) one employee of the Company selected by the Company;
- and
- (G) five representatives of the Company selected by the Company.

(ii) The Grant Review Board with the authority to approve Grants from the Economic and Community Development Fund (the "Economic and Community Development Board") shall consist of the following Board Members:

(A) one member selected by the Lewis County Economic Development Council;

(B) one local elected official from Lewis County, Washington, selected by the Lewis County Commissioners;

(C) one member selected by the Centralia Chehalis Chamber of Commerce;

(D) one member selected by the Thurston- Lewis- Mason Central Labor Council;

(E) one employee of the Company selected by the Company;
and

(F) four representatives of the Company selected by the Company.

(iii) The Grant Review Board with the authority to approve Grants from the Energy Technology Fund (the "Energy Technology Board") shall consist of the following Board Members:

(A) one member selected by the Lewis County Economic Development Council;

(B) one local elected official from Lewis County, Washington, selected by the Lewis County Commissioners;

(C) one member selected by the Centralia Chehalis Chamber of Commerce;

(D) one member selected by Climate Solutions;

(E) one member selected by the Thurston- Lewis- Mason Central Labor Council;

(F) one member selected by Innovate Washington;

(G) one member selected by the Southwest Clean Air Agency;

(H) two employees of the Company, selected by the Company;
and

(I) six representatives of the Company selected by the Company.

(c) At any time following the third anniversary of the Effective Date, the Company and the office of the Governor of the State may jointly agree to substitute any entity

authorized to designate a Board Member pursuant to Section 4(b) with another entity with a similar mission or constituency, as determined by the Company and the office of the Governor of the State in their sole discretion in accordance with the requirements of RCW 80.80.100(4)(b).

(d) Each Board Member shall have one vote. The affirmative vote of a number of Board Members equal to a majority of Board Members on any Grant Review Board plus one shall constitute a “Supermajority”.

(e) The entity authorized to designate a Board Member pursuant to Sections 4(b) and 4(c) shall have the authority to remove such Board Member, with or without cause, by written notice to such Grant Review Board and the Board Members thereof. In the event that any Board Member ceases to serve as a Board Member for any reason, the resulting vacancy on such Grant Review Board shall be filled by a replacement Board Member designated by the entity authorized to designate such member pursuant to Sections 4(b) and 4(c) by written notice to such Grant Review Board and the Board Members thereof.

(f) Each Board shall select its own chairperson.

(g) Subject to the terms of Section 5, the Weatherization Board shall, no later than January 1, 2013, adopt by a Supermajority (i) the process by which persons may submit applications for Grants to be made from the applicable Account, including the procedure for preliminary review of applications, (ii) the criteria and standards by which Grants may be made and (iii) a non-binding schedule of anticipated Grants by category (clauses (i), (ii) and (iii), collectively, the “Grant Procedures”). Subject to the terms of Section 5, the Economic and Community Development Board and the Energy Technology Board shall, no later than January 1, 2015, adopt by a Supermajority of its Board Members Grant Procedures with respect to each of the Economic and Community Development Fund and the Energy Technology Fund, respectively. The Grant Review Boards will jointly establish and maintain a single website to make such Grant Procedures and announcements relating to solicitations of proposals and awards of bids readily available to the public and shall further publicize such solicitations in a manner which the Grant Review Boards deem appropriate in its reasonable discretion, with all reasonable costs and expenses incurred as a result of the establishment or maintenance of such website and any such publicity to be payable from the applicable Account in accordance with the terms of Section 4(l).

(h) A Grant shall be made from an Account only following the affirmative written consent of a Supermajority of the Board Members of the applicable Grant Review Board, which consent must set forth the amount of such Grant, the recipient of such Grant, the date or dates upon which such Grants are to be made and any conditions to which the payment of Grant proceeds is subject; provided, however, that all Grants shall be made only for Proper Grant Purposes. No Grants may be authorized from the Weatherization Fund prior to the later to occur of (i) the execution by the Company or an affiliate of a Qualified Power Purchase Agreement (as defined in Section 8(c) below) and (ii) July 1, 2013. No Grants may be authorized from the Economic and Community Development Fund or the Energy Technology Fund prior to December 31, 2015.

(i) Following the affirmative written consent of a Supermajority of the Board Members of a Grant Review Board, the member or members of such Grant Review Board appointed by the Company shall be authorized to deliver to the Account Agent a letter of direction, in accordance with the terms of the Account Agreement, authorizing the Account Agent to make such Grants from the Accounts as have been authorized pursuant to Section 4(h).

(j) Meetings of each Grant Review Board shall be held quarterly, except that a Supermajority of the Board Members of any Grant Review Board may call special meetings of such Grant Review Board. Board Members may participate in a meeting of a Grant Review Board by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, with such participation constituting presence in person at such meeting. Written or oral notice of regular or special meetings of each Grant Review Board shall be given at least two days prior to the date of the meeting. A Board Member may waive notice of a meeting either before or after the meeting by written waiver or attendance at the meeting. Board Members may vote at any meeting either in person or by proxy executed in writing.

(k) Board Members shall not be entitled to any remuneration for their service on any Grant Review Board.

(l) Costs associated with administering the grant process, the Accounts or the Grant Review Boards, including without limitation reasonable costs relating to accounting, establishment of systems for payment of Grants and expenses incurred by Board Members, shall be payable from the applicable Accounts. Board Members shall be entitled to be reimbursed for costs and expenses incurred as a result of serving on a Grant Review Board or attending meetings of a Grant Review Board to the extent such reimbursement would be permitted to be made to a person serving on a class one group board established by the State of Washington under RCW 43.03.220 and pursuant to the State Administrative and Accounting Manual, as published by the Washington State Office of Financial Management.

5. Publicity and Naming Rights.

(a) All press releases and other announcements regarding the solicitation, award or distribution of individual Grants shall be made in coordination with and give recognition to the Company. The State, the Grant Review Boards and the Board Members shall not, directly or indirectly, issue any such press release or make any such announcement without the prior consent of the Company, not to be unreasonably withheld.

(b) The Company shall have the authority to designate names for each Grant or series of Grants in recognition of its financial support. If the Company or TransAlta changes its name or corporate image at any time during the term of this MOA, the Company may designate related changes to the names of the Grants.

6. SNCR Installation. No later than January 1, 2013, the Company shall install SNCR equipment in each Boiler on the terms and conditions set forth in the Department of Ecology administrative order, First Revision: Order No. 6426, dated December 13, 2011, regarding the Best Available Retrofit Technology for the eligible emission units at the Facility

(the “BART Order”). The Company and the State have discussed the proper use of ammonia in this technology as required by RCW 80.80.100(2)(b), and the Company shall operate the Facility in conformance with the requirements set forth in Section 2 of the BART Order.

7. Recognition of Investments in Emissions Reductions. In the event that the Company elects to reduce greenhouse gas emissions in excess of the emission reductions required by RCW 80.80.040(3)(c) (“Additional Emissions Reductions”), the State shall recognize such Additional Emissions Reductions in applicable state policies and programs relating to greenhouse gas emissions, and shall use its reasonable best efforts to cause the Additional Emissions Reductions to be recognized for the benefit of the Company in applicable regional, national or international policies and programs relating to greenhouse gas emissions. Further, the State agrees to recognize the Company’s shut-down of the Facility’s boilers prior to the end of their useful lives by taking the early shut-down into consideration during future environmental regulatory processes that may adversely affect the Facility’s operations. This shall entail providing TransAlta with an opportunity to consult with Department of Ecology officials prior to final promulgation of environmental rules or other regulatory requirements. Such consultation shall occur upon written request of the Company to the Department of Ecology and, at the Company’s request, shall include participation of a representative of the Governor’s Office.

8. Termination.

(a) This MOA may be terminated by the Company effective immediately upon written notice to the State at any time prior to or following the Effective Date upon the issuance by any governmental agency of a determination (i) that selective catalytic reduction technology must, as a matter of state or federal law, be installed on either or both of the Boilers or (ii) that conditions any rights or privileges on the installation of selective catalytic reduction technology on either or both of the Boilers.

(b) This MOA may be terminated by the Company effective immediately upon written notice to the State if any or all tax exemptions applicable to the Company and the Facility under RCW 82.08.811 or RCW 82.12.811, in either case as in effect on July 22, 2011 (the “Specified Sales and Use Tax Exemptions”), are repealed or amended in a manner that reduces or impairs the ability of the Company or its affiliates to utilize such tax exemptions.

(c) This MOA may be terminated by the Company effective upon five (5) business days’ written notice to the State if, as of December 15, 2012, the Company or an affiliate has failed, despite the exercise of its commercially reasonable efforts, to negotiate and execute one or more power purchase agreements including terms and conditions relating to force majeure, outages and resupply rights, for the sale of at least 500 megawatts of the baseload electrical output of the Facility with one or more consumer-owned utilities or electrical companies as defined in RCW 80.80.010, with the Bonneville Power Administration, or with consumers located in Washington State, for a term of at least eight years (“Qualified Power Purchase Agreements”); provided, however, that during the five (5) business day period following notice of termination pursuant to this Section 8(c), the Parties may agree to extend the term of this MOA for an additional year, in which case this MOA may be terminated by the Company effective upon written notice to the State if, as of December 15, 2013, the Company or

an affiliate has failed, despite the exercise of its commercially reasonable efforts, to negotiate and execute a Qualified Power Purchase Agreement. Subject to entry into a mutually acceptable confidentiality agreement, in connection with exercise of the termination right set forth in this Section 8(c), the Company shall provide the Governor of the State of Washington or a designee thereof the opportunity to review all provisions of such power purchase agreements that relate to quantity or duration of power sold and the location of the facility taking delivery of such power.

(d) This MOA may be terminated by the Company effective immediately upon written notice to the State if the Company (i) has reasonably determined that the cost of replacements, improvements, capital investments or additions required to continue to operate the Facility, combined with the Facility's operating costs, over the remaining life of the Facility will exceed the reasonably foreseeable financial return to the Company from continued operation of the Facility over such period and (ii) on the basis of such determination has permanently ceased power generation operations of the Facility.

9. Effect of Termination.

(a) In the event this MOA is terminated pursuant to Section 8(a) or 8(c), all amounts in the Accounts that have not been disbursed prior to the effectiveness of such termination, including for the avoidance of doubt all interest and gains earned on funds in the Accounts, shall be immediately returned to the Company. In the event this MOA is terminated pursuant to Section 8(b) and the repeal or amendment of the Specified Sales and Use Tax Exemptions is applied retroactively, an amount of cash in the Accounts equal to the marginal tax liability resulting from such retroactive application shall be immediately returned to the Company.

(b) In the event this MOA is terminated pursuant to Sections 8(a), 8(b), or 8(c), this MOA shall become void and of no further force or effect, with no liability or obligation hereunder on the part of either Party or any of their respective affiliates, officers, managers, directors, employees, members or shareholders, except that Sections 6, 8(a), 10, 11 and 12 shall survive such termination.

(c) In the event this MOA is terminated pursuant to Section 8(d), the Company shall have no obligation to make any annual payments after notice of termination and this MOA shall terminate upon the date that all funds in any Accounts have been applied to Grants or otherwise applied as provided herein. Upon such termination, this MOA shall become void and of no further force or effect, with no liability or obligation hereunder on the part of either Party or any of their respective affiliates, officers, managers, directors, employees, members or shareholders, except that Sections 8(a), 10, 11 and 12 shall survive such termination.

(d) Termination of this MOA pursuant to Section 8 shall not in any manner impact the validity or enforceability of contracts or agreements entered into by the Parties, other than this MOA, prior to the date of such termination, including Qualified Power Purchase Agreements or other agreements for the sale of electrical output of the Facility.

10. Records Review. The Company agrees that the State or its designated representatives shall have the right to review and, as to any non-confidential documents, to copy

any records and supporting documentation pertaining to the obligations of the Company under this MOA, including review of any records with respect to the Accounts. Prior to the termination of this MOA, the Company agrees to maintain all such records for a minimum of seven years, and following the termination of this MOA, the Company agrees to maintain all such records for a minimum of three years. The Company agrees to allow access to such records during normal business hours.

11. Enforcement.

(a) If there is a dispute between the Parties relating to or arising out of this MOA, the Parties agree to escalate the dispute for resolution by senior management of the Company and a senior advisor within the office of the Governor of the State of Washington, on behalf of the State.

(b) If the senior management of the Company and a senior advisor within the office of the Governor are unable to resolve the dispute, either Party may, by written notice to the other, submit such dispute to non-binding mediation pursuant to RCW 7.07. Mediation in accordance with this Section 11(b) will be conducted by a mediator mutually selected by the Parties; provided that if the Parties fail to mutually select a mediator within ten business days after such notice, then the Parties will follow the mediator selection procedures in accordance with the American Arbitration Association Commercial Arbitration Rules and Mediation Procedures. Each Party will bear its own costs in such mediation, and the mediator's fee will be divided evenly between the Parties.

(c) If the Parties are unable to resolve the dispute through mediation, either Party shall have the full right to seek resolution of the dispute through legal action. Any claims relating to a dispute arising out of this MOA that are not resolved in non-binding mediation as provided in Section 11(b) must be brought in the superior court for Lewis County, Washington or, to the extent a federal court has jurisdiction over such dispute, federal court located in Tacoma, Washington.

(d) Subject to Section 11(f), each Party shall be entitled to all rights and remedies provided by law or in equity. Each Party recognizes and agrees that monetary damages may not be a sufficient remedy for breaches of this MOA, and that each Party shall be entitled, without waiving any other rights or remedies, to such injunctive and/or other equitable relief to prevent a breach of the provisions of this MOA, or any part thereof, as may be deemed proper by a court of competent jurisdiction.

(e) In the event that a court of competent jurisdiction finds that the State has materially breached any of its covenants or agreements contained herein, the Company shall be entitled to rescission or termination of this MOA, and shall be entitled to immediate return of all amounts in the Accounts that have not been disbursed prior to the entry of the applicable court order, including for the avoidance of doubt all interest and gains earned on funds in the Accounts.

(f) Each Party acknowledges and agrees that any controversy which may arise under this MOA is likely to involve complicated and difficult issues, and therefore each

Party hereby irrevocably and unconditionally waives any right such Party may have to a trial by jury in respect of any litigation directly or indirectly arising out of or relating to this MOA, or the transactions contemplated by this MOA.

12. Miscellaneous.

(a) *No Third Party Beneficiaries.* The provisions of this MOA are intended solely for the benefit of the Parties, and this MOA shall not confer any rights or remedies upon a person other than the Parties.

(b) *Successors and Assigns.* The provisions of this MOA will inure to the benefit of, and be binding on, the Parties and their successors and assigns.

(c) *Force Majeure.* No Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this MOA, for any failure or delay in fulfilling or performing any term of this MOA, when and to the extent such failure or delay is caused by or results from acts beyond the affected Party's reasonable control, including, without limitation: (i) acts of God; (ii) flood, fire, earthquake or explosion; (iii) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (iv) government order or law, (v) actions, embargoes or blockades in effect on or after the date of this MOA; (vi) action by any government or agency, bureau, board, commission, court, department, official, political subdivision, tribunal or other instrumentality of any government, whether federal, state or local (each, a "Governmental Body"), or the failure by any Governmental Body to comply with statutorily mandated permitting time requirements; (vii) national or regional emergency; (viii) strikes, labor stoppages or slowdowns or other industrial disturbances; and (ix) interruption or curtailment of the transportation, distribution, storage or other delivery of coal for non-economic reasons (each, a "Force Majeure Event"); provided, that the State's obligations under this MOA may not be excused pursuant to the terms of subsections (iv) or (vi) of this Section 12(c) if the Force Majeure Event is caused by the action or inaction of the State of Washington. The Party suffering a Force Majeure Event shall give notice within seven days of the Force Majeure Event to the other Party, stating the period of time the occurrence is expected to continue and shall use commercially reasonable efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized.

(d) *Governing Law.* This MOA shall be construed and administered in accordance with and governed by the laws of the State of Washington, and the Laws of the United States of America applicable therein.

(e) *Consent to Jurisdiction.* Subject to the provisions of Section 11, in connection with any disputes arising under this MOA, the Parties hereby submit to the jurisdiction of state court located in Lewis County, Washington.

(f) *Severability.* The Parties intend and believe that each provision of this MOA comports with all applicable local, state and federal laws and judicial decisions. However, if any term or other provision of this MOA other than Section 8(c) or 9(a) is found by a court of law to be in violation of any applicable local, state or federal ordinance, statute, law, administrative or judicial decision, or public policy, and if such court should declare such term

or provisions of this MOA to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent of the Parties that such term or provisions shall be given force to the fullest possible extent that they are legal, valid and enforceable, that the other conditions and provisions of this MOA shall be construed as if such illegal, invalid, unlawful, void or unenforceable term or provision were not contained herein, and that the rights, obligations and interest of the Parties under the remainder of this MOA shall remain in full force and effect, provided that enforcement of such remainder of the MOA does not materially modify either Party's burdens and benefits under the MOA. Upon such determination that any term or other provision is illegal, invalid, unlawful, void or unenforceable as written, the Parties shall negotiate in good faith to modify this MOA so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner. If the Parties cannot agree to such a modification and a Party believes that it will suffer a material adverse effect due to the severance of one or more unenforceable terms or provisions, that Party may rescind or terminate this MOA upon notice to the other Party.

(g) *Entire Agreement.* This MOA constitutes the entire agreement between the Parties with respect to the subject matter hereof and no representations, promises or agreements, oral or otherwise, between the Parties not embodied herein shall be of any force or effect.

(h) *Reopener; Modification.* The Parties agree that, if either Party provides notice to the other Party requesting to meet to discuss modification of this MOA, the Parties shall meet and negotiate in good faith to modify the MOA to the mutual satisfaction of the Parties. Notwithstanding the foregoing, no provisions of this MOA may be changed, waived, discharged or terminated orally, but only by written instrument executed by both Parties.

(i) *Counterparts and Facsimile Signatures.* This MOA may be executed by the Parties through execution of identical counterpart agreements, each of which when executed shall constitute a single agreement. Facsimile signatures shall be deemed equivalent to original signatures.

(j) *Notice.* Any notice required from a Party under this MOA shall be written and shall be sent by personal delivery, messenger service, facsimile or nationally recognized courier service, with a separate copy of such notice to be delivered by e-mail, in each case to the address, facsimile number or e-mail address of such Party as set forth below. A Party may change its address for purposes of notice upon notice to the other Party. Any notice provided by a Party under this MOA shall be deemed received (i) on the date of delivery if delivered personally and/or by messenger service, (ii) on the date of confirmation of receipt of transmission by facsimile or (iii) one business day after being sent by nationally recognized courier service.

<p><i>If to the State:</i></p> <p>Governor's Executive Policy Office PO Box 43113 Olympia, WA 98501-3113 Attention: Keith Phillips Telephone No.: (360) 902-0630 Facsimile No.: (360) 586-8380 Email: Keith.Phillips@gov.wa.gov</p> <p>and</p> <p>Attorney General's Office, Ecology Division PO Box 40117 Olympia, WA 98502 Attention: Laura J. Watson Facsimile No.: (360) 586-6760 Email: LauraW2@atg.wa.gov</p>	<p><i>If to Company:</i></p> <p>TransAlta Centralia Generation LLC c/o TransAlta USA, Inc. 724 Columbia Street NW, Suite 320 Olympia WA 98501 Attention: Lori Schmitt Telephone No.: (360) 742-3052 Facsimile No.: (360) 742-3093 Email: Lori_Schmitt@transalta.com</p> <p>with a copy (which shall not constitute notice to the Company) to:</p> <p>K&L Gates LLP 425 Fourth Avenue, Suite 2900 Seattle, WA 98104 Attention: Liz Thomas Facsimile No.: (206) 370-6190 Email: liz.thomas@klgates.com</p>
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[Signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Memorandum of Agreement as of the day and year first set forth above.

THE STATE OF WASHINGTON


By: Christine O. Gregoire
Title: Governor

THE COMPANY

TRANSALTA CENTRALIA GENERATION LLC


By: Paul Taylor
Its: President