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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA**

Order Instituting Rulemaking to Continue
Implementation and Administration, and
Consider Further Development, of California
Renewables Portfolio Standard Program.

Rulemaking 15-02-020
(Filed February 26, 2015)

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E)
2018 DRAFT RENEWABLES PORTFOLIO STANDARD PROCUREMENT PLAN

VOLUME 2

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August 20, 2018

PUBLIC APPENDIX F.1

2018 *Pro Forma* Renewable Power Purchase Agreement



SOUTHERN CALIFORNIA
EDISON

An *EDISON INTERNATIONAL* Company

2018 PRO FORMA

RENEWABLE POWER PURCHASE AGREEMENT

between

SOUTHERN CALIFORNIA EDISON COMPANY

and

[SELLER'S NAME]

(RAP ID #*[Number]*)

STANDARD CONTRACT TERMS AND CONDITIONS THAT MAY NOT BE MODIFIED
PER THE CPUC D. 08-04-009, D.08-08-028, D.10-03-021 AND D.11-01-025 ARE SHOWN
IN GREEN SHADED TEXT.]

TERMS THAT ARE BOXED AND SHADED IN LIGHT YELLOW ARE EITHER
SCE COMMENTS OR GENERATING FACILITY-TYPE SPECIFIC COMMENTS
THAT SHOULD BE REMOVED OR ACCEPTED, AS APPLICABLE.

The contents of this document are subject to restrictions on disclosure as set forth herein.

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- B. Generating Facility and Site Description.
- C. Notice List.
- D. Forecasting and Scheduling Requirements and Procedures.
- E. Payments and Invoicing.
- F. Product Replacement Damage Amount.
- G. Seller's Milestone Schedule and Material Permits.
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- I. Time of Delivery Periods and Product Payment Allocation Factors.
- J. Procedure for Demonstration of Contract Capacity.
- K. Seller's Estimate of Lost Output.
- L. Form of Letter of Credit.
- M. Form of Collateral Assignment Agreement
- N. SCE Penalties and CAISO Sanctions.
{SCE Comment: For Intermittent only.}

CAISO Costs and CAISO Sanctions.
{SCE Comment: For Baseload only.}

- | |
|---|
| <ul style="list-style-type: none">O. Actual Availability Report.P. Meteorological Station Specifications.
<i>{SCE Comment: For Intermittent only.}</i> |
|---|

The contents of this document are subject to restrictions on disclosure as set forth herein.

RENEWABLE POWER PURCHASE AGREEMENT

between

SOUTHERN CALIFORNIA EDISON COMPANY

and

[SELLER'S NAME]

(RAP ID #*[Number]*)

PREAMBLE

This Renewable Power Purchase Agreement, together with the exhibits and attachments (collectively, the "Agreement") is made and effective as of the following date: *[Date of Execution]* ("Effective Date").

This Agreement is entered into between:

- (i) **Southern California Edison Company** ("SCE"), a California corporation, whose principal place of business is at 2244 Walnut Grove Avenue, Rosemead, California 91770, and
- (ii) *[Seller's Name]* ("Seller"), a *[Seller's jurisdiction of organization and type of organization]*, whose principal place of business is at *[Seller's place of business]*.

SCE and Seller are sometimes referred to herein individually as a "Party" and jointly as the "Parties." Unless the context otherwise specifies or requires, capitalized terms in this Agreement have the meanings set forth in Exhibit A.

RECITALS

- A. Seller is willing to *[construct]*, own, and Operate a Generating Facility which qualifies, or will qualify, as an ERR, and to sell the Product to SCE pursuant to the terms and conditions set forth in this Agreement; and
- B. SCE is willing to purchase the Product from Seller pursuant to the terms and conditions set forth in this Agreement.

ARTICLE ONE. SPECIAL CONDITIONS**1.01 Generating Facility.**

- (a) Name: *[Generating Facility Name]*.
- (b) Location of Site: *[Generating Facility Address]*, as further described in Exhibit B.
- (c) Description: As set forth in Exhibit B.
- (d) Product: All electric energy produced by the Generating Facility throughout the Delivery Term, net of Station Use; all Green Attributes; all Capacity Attributes; and all Resource Adequacy Benefits; generated by, associated with or attributable to the Generating Facility throughout the Delivery Term.
- (e) Interconnection Point: *[insert name or location]*.
{SCE Comment: Placeholder for name of substation or method of identifying location of interconnection to Transmission Provider's electric system. First point of interconnection must be with a California Balancing Authority (i.e., CAISO, Imperial Irrigation District, Turlock Irrigation District, Los Angeles Department of Water & Power (LADWP), or Balancing Authority of Northern California (formerly Sacramento Municipal Utility District).}
- (f) Delivery Point: At the point of interconnection with the CAISO-Controlled Grid, *[insert name or location]*.
{SCE Comment: Placeholder for identifying location on CAISO-Controlled Grid.}
- (g) ERR Type: *[Generation Technology]*.
- (h) Contract Capacity: *[Number]* MW. *{SCE Comment: This should equal the AC nameplate capacity.}* The Contract Capacity may be reduced as set forth in Section 3.06(a).
- (i) Installed DC Rating: *[Number]* kW_{PDC}.
 The Installed DC Rating may be reduced as set forth in Section 3.06(a).
{SCE Comment: For Solar Photovoltaic.}
- (j) Expected Annual Net Energy Production. *{SCE Comment: For all technologies except Solar Photovoltaic.}*

The Expected Annual Net Energy Production for each Term Year will be the value calculated in accordance with the following formula:

EXPECTED ANNUAL NET ENERGY PRODUCTION, in kWh = A x B x C

Where:

A = Contract Capacity in kW.

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B = [Number] % capacity factor.

C = 8,760 hours per year.

Expected Annual Net Energy Production. {SCE Comment: For Solar Photovoltaic.}

The Expected Annual Net Energy Production for each Term Year will be the value calculated in accordance with the following formula:

EXPECTED ANNUAL NET ENERGY PRODUCTION, in kWh

$$= A \times B \times C$$

Where:

A = The Installed DC Rating, in kW_{PDC}. (As of the Effective Date and until SCE's verification of Seller's installation of the Generating Facility pursuant to Exhibit J, this rating is deemed to be [Number] kW_{PDC}).

B = [Annual Energy Yield Factor Number] kWh AC per kW_{PDC} per year.

C = Annual degradation factor ("Annual Degradation Factor") in each Term Year as follows:

<u>Term Year</u>	<u>Annual Degradation Factor</u>
1	
2	
3	
4	
5	
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1.02 Forecasted Commercial Operation Date.

The Forecasted Commercial Operation Date is [Date].

1.03 Commercial Operation Deadline.

- (a) Subject to any extensions made pursuant to Sections 3.06(d) or 5.03, and further subject to Section 1.03(c), the Commercial Operation Date must be no later than [Date][the date that is thirty-six (36) months after CPUC Approval] {SCE Comment: For Standard Contract Option} (“Commercial Operation Deadline”).
- (b) Subject to Section 1.03(d), if Seller has not obtained Permit Approval on or before that date that is ninety (90) days before the Forecasted Commercial Operation Date, then, upon SCE’s receipt of Notice from Seller, which Notice must be provided at least sixty (60) days before the Forecasted Commercial Operation Date, the Commercial Operation Deadline shall be extended for an additional six (6) months; provided, however, such extension shall not be given if the failure to obtain Permit Approval was as a result of Seller’s failure to take all commercially reasonable actions to apply for and meet all of its requirements and deadlines to obtain such Permit Approval.

Subject to Section 1.03(d), if Seller has not obtained Permit Approval on or before that date that is ninety (90) days before the date that is thirty-six (36) months from the date of CPUC Approval, then, upon SCE’s receipt of Notice from Seller, which Notice must be provided at least sixty (60) days before the date that is thirty-six (36) months from the date of CPUC Approval, the Commercial Operation Deadline shall be extended six (6) months from the date that is thirty-six (36) months from the date of CPUC Approval; provided, however, such extension shall not be given if the failure to obtain Permit Approval was as a result of Seller’s failure to take all commercially reasonable actions to apply for and meet all of its requirements and deadlines to obtain such Permit Approval. {SCE Comment: For Standard Contract Option}

RAP ID# [Number], [Seller's Name]

- (c) Notwithstanding anything in this Agreement to the contrary, the Commercial Operation Deadline may not be later than [Date]. *{SCE Drafting Note: The inserted date will be the date that corresponds with the Forecasted Commercial Operation Date plus an additional 365 days.}*
- (d) Upon request from SCE, Seller shall provide documentation demonstrating to SCE's reasonable satisfaction that the delays described in Section 1.03(b), did not result from Seller's action or failure to take action as described in Section 1.03(b).

1.04 Term.

The Term commences on the Commercial Operation Date determined in accordance with Section 2.02 and ends on the last day of the calendar month that is [number of months in Term (#)] months ([number of years in Term (#)] years) from the month of the Commercial Operation Date (the "Term").

1.05 Product Price.

- (a) Subject to Sections 1.05(b) and 1.05(c)(i), the Product Price is [Dollar amount text] dollars (\$[Number]) per MWh, [escalated at [Number text] percent ([Number] %) per Term Year] {if applicable}.

(b) Federal Tax Incentives.

If, prior to the commencement of the Term, Federal Investment Tax Credit Legislation is enacted which is applicable to the Generating Facility, Seller shall provide a Notice to SCE of the effective date of such legislation and the Product Price shall be reduced by \$_____ per MWh for each percentage point that the level of the investment tax credit is over 10%.

{SCE Comment: Applicable to solar and geothermal projects. Seller should propose the price reduction amount.}

If, prior to the commencement of the Term, Federal Production Tax Credit Legislation is enacted which is applicable to the Generating Facility, Seller shall provide a Notice to SCE of the effective date of such legislation and the Product Price shall be reduced by \$.50 per MWh for each dollar (\$1.00) that the production tax credit is over \$18.40/MWh.

{SCE Comment: Applicable to all other renewable energy projects.}

(c) Excess Deliveries.

- (i) If during any Settlement Interval Seller delivers Metered Amounts, expressed in MWh, in excess of the product of [Number] *{SCE Comment: bracketed number should equal the lesser of the Contract Capacity and the maximum expected output at the Delivery Point, not to exceed the interconnection capacity.}*, expressed in MW, multiplied by the length of such Settlement Interval, expressed in hours, then the Product Price

The contents of this document are subject to restrictions on disclosure as set forth herein.

applicable to all such excess MWh in such Settlement Interval shall be Zero dollars (\$0) per MWh, and if there is a Negative LMP during such Settlement Interval, Seller shall pay to SCE an amount equal to the absolute value of the Negative LMP times such excess MWh ("Negative LMP Costs").

- (ii) If during any Term Year Seller delivers Metered Amounts, together with Curtailed Product, that are in the aggregate in excess of one hundred fifteen percent (115%) of the Expected Annual Net Energy Production for such Term Year and such Metered Amounts are not (1) subject to Section 1.05(c)(i) or (2) delivered in violation of Section 3.12(g), then Seller shall be responsible for and pay all CAISO Sanctions and CAISO Costs and Seller shall be entitled to all CAISO Revenues with respect to all such excess Metered Amounts in such Term Year.

1.06 Interconnection Queue Position.

[Number(s) to be inserted]

1.07 Compliance Expenditure Cap.

If Seller establishes to SCE's reasonable satisfaction that a change in Applicable Laws occurring after the Effective Date has increased Seller's cost above the cost that could reasonably have been contemplated as of the Effective Date to take all actions to comply with Seller's obligations under the Agreement with respect to obtaining, maintaining, conveying or effectuating SCE's use of (as applicable), the items listed in Sections 1.07(a) through (d), then Seller's required out-of-pocket expenses are limited to *[Dollar amount text]* dollars (\$*[Number]*) {*SCE Comment: The amount shall be equal to one percent (1%) of the expected annual Project revenues, but not less than One Hundred Thousand dollars (\$100,000)*} in the aggregate each Term Year ("Compliance Expenditure Cap") between the Effective Date and the last day of the Term:

- (a) CEC Pre-Certification or CEC Certification and CEC Verification;
- (b) Green Attributes;
- (c) Capacity Attributes; and
- (d) Resource Adequacy Benefits.

Any actions required for Seller to comply with its obligations set forth in the first paragraph above, the cost of which will be included in the Compliance Expenditure Cap, shall be referred to collectively as the "Compliance Actions."

If Seller reasonably anticipates the need to incur out-of-pocket expenses in excess of the Compliance Expenditure Cap in order to take any Compliance Action Seller shall provide Notice to SCE of such anticipated out-of-pocket expenses.

SCE will have sixty (60) days to evaluate such Notice (during which time period Seller is not obligated to take any Compliance Actions described in the Notice) and shall, within

such time, either (1) agree to reimburse Seller for all or some portion of the costs that exceed the Compliance Expenditure Cap (such SCE-agreed upon costs, the “Accepted Compliance Costs”), or (2) waive Seller’s obligation to take such Compliance Actions, or any part thereof for which SCE has not agreed to reimburse Seller.

If SCE agrees to reimburse Seller for the Accepted Compliance Costs, then Seller shall take such Compliance Actions covered by the Accepted Compliance Costs as agreed upon by the Parties and SCE shall reimburse Seller for Seller’s actual costs to effect the Compliance Actions, not to exceed the Accepted Compliance Costs.

*** End of ARTICLE ONE ***

ARTICLE TWO. TERM AND CONDITIONS PRECEDENT; TERMINATION**2.01 Obligations Prior to Commencement of the Term.****(a) CPUC Filing and Approval of this Agreement.**

Within ninety (90) days after the Effective Date, SCE shall file with the CPUC the appropriate request for CPUC Approval. *{SCE Comment: Please note that CPUC D.07-11-025 does not allow for any extensions to the ninety (90) day filing requirement}* SCE shall expeditiously seek CPUC Approval, including promptly responding to any requests for information related to the request for CPUC Approval. As requested by SCE, Seller shall use commercially reasonable efforts to support SCE in obtaining CPUC Approval. SCE has no obligation to seek rehearing or to appeal a CPUC decision which fails to approve this Agreement or which contains findings required for CPUC Approval with conditions or modifications unacceptable to either Party.

(b) Seller's Interconnection Queue Position.

Seller must not (i) withdraw the Interconnection Queue Position identified in Section 1.06, (ii) assign or transfer that Interconnection Queue Position to any entity, or (iii) utilize the Interconnection Queue Position for the benefit of any power purchase and sale agreement other than the Agreement, in each case, without SCE's prior written consent.

(c) Seller's Regulatory and Governmental Filings.

- (i) Within one hundred eighty (180) days after the Effective Date, Seller shall file an application or other appropriate request for CEC Pre-Certification for the Generating Facility.
- (ii) On or before [Date], Seller shall file all applications or other appropriate requests with the proper authorities for all Material Permits, and shall promptly respond to any requests for information from the requesting authority.

2.02 Conditions Precedent to Commencement of Term.**(a) Commencement of Term.**

The Term commences upon the Commercial Operation Date.

(b) Commercial Operation.

- (i) Subject to the remainder of this subsection 2.02(b), the Commercial Operation Date shall be a date selected by Seller upon at least three (3) Business Days Notice to SCE; *provided*, the Commercial Operation Date may not be earlier than [Date].

- (ii) The Commercial Operation Date may not occur until each of the following has been satisfied:
 - (1) Seller has completed the installation and testing of the Generating Facility for purposes of financing, Permits, the interconnection agreement, operating agreements, the EPC agreement and manufacturer's warranties;
 - (2) Seller has received an independent engineer's certification that the Generating Facility has been completed in all material respects (except punch list items that do not materially and adversely affect the ability of the Generating Facility to operate as intended);
 - (3) Seller has met all conditions set forth in Section 3.12(c);
 - (4) Seller has posted with SCE the Performance Assurance required under Section 8.02;
 - (5) Seller has paid to SCE the full amount of the Excess Network Upgrade Costs, if applicable; and
 - (6) Seller has taken all steps necessary to allow SCE to be designated as the Account Holder in accordance with Section 3.01(d)(iv).

2.03 Termination Rights.

(a) Termination Rights of Both Parties.

- (i) If either Party exercises a termination right, as set forth in Sections 2.03(a)(ii), 2.03(b) or 5.04, a Termination Payment will be calculated in accordance with Section 6.03, the Forward Settlement Amount will be Zero dollars (\$0), the terminating Party will be considered the Non-Defaulting Party and, if the termination occurs before the commencement of the Term, Seller will be entitled to a return of any Development Security provided to SCE.
- (ii) Either Party has the right to terminate this Agreement on Notice, which will be effective five (5) Business Days after such Notice is given, if CPUC Approval has not been obtained or waived by SCE in its sole discretion within three hundred sixty-five (365) days after SCE files its request for CPUC Approval and a Notice of termination is given on or before the three hundred ninety-fifth (395th) day after SCE files the request for CPUC Approval.

(b) Termination Rights of SCE.

SCE has the right to terminate this Agreement on Notice, which will be effective five (5) Business Days after such Notice is given to Seller, on or before the date that is sixty (60) days after Seller provides to SCE the results of any

Interconnection Study or the interconnection agreement tendered to Seller by the Transmission Provider if:

- (i) Such Interconnection Study or agreement as of the date of the termination Notice, estimates, includes, specifies or reflects that the maximum total cost of transmission upgrades or new transmission facilities to SCE, or any Transmission Provider under the jurisdiction of the CAISO, including costs reimbursed by SCE, or any Transmission Provider under the jurisdiction of the CAISO, to Seller (“Aggregate Network Upgrade Costs”), may in the aggregate exceed [dollar amount text] dollars (\$[Number]) (“Network Upgrades Cap”), irrespective of any subsequent amendments of such Interconnection Study or agreement or any contingencies or assumptions upon which such Interconnection Study or agreement is based; or
{SCE Comment: Monetary threshold to be based upon transmission-related costs allocated to the Generating Facility that SCE would incur as estimated in the most recent Interconnection Study.}
- (ii) SCE must procure transmission service from any other Transmission Provider to allow SCE to Schedule electric energy from the Generating Facility and the cost for such transmission service is not reimbursed or paid by Seller.

Notwithstanding anything to the contrary in this Section 2.03(b), SCE shall have no right to terminate this Agreement under this Section 2.03(b), if Seller, concurrently with its provision of the relevant Interconnection Study or agreement pursuant to Section 3.17(a), irrevocably agrees that Seller shall owe to SCE (I) the amount by which the Aggregate Network Upgrade Costs exceed the Network Upgrades Cap (“Excess Network Upgrade Costs”), and (II) any costs for transmission services specified in Section 2.03(b)(ii). If Seller elects to pay, without reimbursement, for the Excess Network Upgrade Costs pursuant to this Section 2.03(b), in no event shall Seller have any interest in or rights or title to any Network Upgrades (as defined in the CAISO Tariff) or Congestion Revenue Rights (as defined in the CAISO Tariff) in connection with the development of the Generating Facility or the delivery of Product to SCE pursuant to this Agreement.

(c) Uncured Defaults.

Upon the occurrence of an Event of Default, the Non-Defaulting Party may terminate this Agreement as set forth in Section 6.02.

(d) End of Term.

This Agreement automatically terminates at the end of the Term as set forth in Section 1.04 unless earlier terminated as provided in this Agreement.

2.04 Rights and Obligations Surviving Termination.

The contents of this document are subject to restrictions on disclosure as set forth herein.

(a) Survival of Rights and Obligations Generally.

The rights and obligations that are intended to survive a termination of this Agreement are all of those rights and obligations that this Agreement expressly provides survive any such termination and those that arise from Seller's or SCE's covenants, agreements, representations, and warranties applicable to, or to be performed, at or during any time before or as a result of the termination of this Agreement, including:

- (i) The obligation of Seller to pay the Product Replacement Damage Amount as set forth in Section 3.07(b);
- (ii) The obligation to make, or the right to receive, a Termination Payment as set forth in Section 6.03;
- (iii) The indemnity obligations as set forth in Section 10.03;
- (iv) The obligation of confidentiality as set forth in Section 10.10;
- (v) The right to pursue remedies as set forth in Sections 6.02, 8.05 and 12.04;
- (vi) The limitation of liabilities as set forth in Article Seven;
- (vii) A Party's obligation:
 - (1) To make or receive payment, as applicable, for CAISO Revenues and make payment for CAISO Costs, CAISO Sanctions, and SCE Penalties, as applicable, as set forth in Article Four, Exhibits E and N; and
 - (2) To make or receive Product Payments as set forth in Exhibit E;
- (viii) The covenants and indemnifications regarding the limitations on Seller's and Seller's Affiliates' ability to offer, make or agree to third-party sales as set forth in Sections 2.04(b) and 3.06(b), if applicable;
- (ix) The obligation of Seller to pay to SCE the Development Security if SCE terminates this Agreement in accordance with Section 6.02 prior to Commercial Operation;
- (x) The obligation of Seller to post Performance Assurance as set forth in Section 8.02;
- (xi) The dispute resolution provisions of Article Twelve;
- (xii) The obligation of SCE to return any Development Security under Section 8.01 and Performance Assurance under Section 8.02, as applicable;
- (xiii) Seller's obligations under Section 3.01(d)(iv); and

The contents of this document are subject to restrictions on disclosure as set forth herein.

(xiv) The obligation of Seller to transfer Green Attributes associated with Product, in accordance with Section 3.01(b), for which SCE has paid the Product Price.

(b) Limitations on Seller's and Seller's Affiliates' Ability to Make or Agree to Third-Party Sales from the Site after Certain Terminations of this Agreement.

If Seller terminates this Agreement, as provided in Sections 2.03(a)(ii) or 5.04 (based on a Force Majeure as to which Seller is the Claiming Party), or if SCE terminates this Agreement as provided in Section 3.06(c), or due to an Event of Default of Seller prior to the Commercial Operation Deadline, neither Seller nor Seller's Affiliates may sell, or enter into a contract to sell, electric energy, Green Attributes, Capacity Attributes, or Resource Adequacy Benefits, generated by, associated with or attributable to a generating facility installed at the Site to a party other than SCE for a period of two (2) years following the effective date of such termination (the "Restricted Period").

This prohibition on contracting and sale will not apply if, before entering into such contract or making a sale to a party other than SCE, Seller or Seller's Affiliate provides SCE with a written offer to sell the electric energy, Green Attributes, Capacity Attributes and Resource Adequacy Benefits to SCE at the Product Price and on other terms and conditions materially similar to the terms and conditions contained in this Agreement and SCE fails to accept such offer within forty-five (45) days after SCE's receipt thereof.

Neither Seller nor Seller's Affiliates may sell or transfer the Generating Facility, or any part thereof, or land rights or interests in the Site (including the Interconnection Queue Position) during the Restricted Period so long as the limitations contained in this Section 2.04(b) apply, unless the transferee agrees to be bound by the terms set forth in this Section 2.04(b) pursuant to a written agreement approved by SCE. Upon termination of this Agreement pursuant to the Sections referenced in the first paragraph of this Section 2.04(b), Seller shall deliver a notice of SCE's rights in respect of the Site, in a form reasonably acceptable to SCE, that SCE may record giving notice of SCE's rights under this Section 2.04(b).

Seller shall indemnify and hold SCE harmless from all benefits lost and other damages sustained by SCE as a result of any breach of the covenants contained within this Section 2.04(b).

*** End of ARTICLE TWO ***

ARTICLE THREE. SELLER'S OBLIGATIONS**3.01 Conveyance of Entire Output, Conveyance of Green Attributes, Capacity Attributes and Resource Adequacy Benefits.**

- (a) Metered Amounts. Seller shall dedicate and convey the *entire* Metered Amounts throughout the Delivery Term to SCE. Seller shall convey title to and risk of loss of all Metered Amounts to SCE at the Delivery Point.
- (b) Green Attributes. Seller hereby provides and conveys all Green Attributes associated with all electricity generation from the Project to SCE as part of the Product being delivered. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Project, and Seller agrees to convey and hereby conveys all such Green Attributes to SCE as included in the delivery of the Product from the Project.
- (c) Capacity Attributes and Resource Adequacy Benefits. Subject to Section 1.07, Seller shall dedicate and convey any and all Capacity Attributes and Resource Adequacy Benefits generated by, associated with or attributable to the Generating Facility throughout the Delivery Term to SCE and SCE shall be given sole title to all such Capacity Attributes and Resource Adequacy Benefits in order for SCE to meet its resource adequacy obligations under any Resource Adequacy Rulings.

Seller represents, warrants and covenants to SCE that:

- (i) As of the Effective Date, Seller has not used, granted, pledged, assigned or otherwise committed any portion of the generating capacity of the Generating Facility to meet the Resource Adequacy Requirements of, or to confer Resource Adequacy Benefits on, any entity other than SCE during the Delivery Term; and
- (ii) Throughout the Delivery Term, Seller will not use, grant, pledge, assign or otherwise commit any portion of the generating capacity of the Generating Facility to meet the Resource Adequacy Requirements of, or to confer Resource Adequacy Benefits on, any entity other than SCE.
- (d) Further Action by Seller. Subject to Section 1.07, commencing at least six (6) months before the Commercial Operation Date and throughout the Delivery Term, Seller shall, at its own cost, take all actions and execute all documents or instruments necessary to effectuate the use of the Green Attributes, Capacity Attributes and Resource Adequacy Benefits for SCE's sole benefit throughout the Delivery Term, which actions include:
 - (i) Cooperating with and encouraging the regional entity responsible for resource adequacy administration to certify or qualify the Contract Capacity for resource adequacy purposes;

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (ii) Testing the Generating Facility in order to certify the Generating Facility for resource adequacy purposes;
- (iii) Complying with all current and future CAISO Tariff provisions that address resource adequacy and are applicable to the Generating Facility, including provisions regarding performance obligations and penalties, if applicable;

- (iv) Complying with Applicable Laws regarding the certification and transfer of Renewable Energy Credits, including cooperation with the Western Renewable Energy Generation Information System ("WREGIS") or other process recognized under Applicable Laws for the registration, transfer or ownership of Green Attributes associated with the Generating Facility. Unless otherwise agreed to by the Parties, SCE will take all actions to be the Account Holder and Qualified Reporting Entity, and the party responsible for registering the Generating Facility as a Registered Generating Unit. Seller shall provide SCE with all supporting documents requested for registration approval, as required by WREGIS. *{SCE Comment: Language only applicable to projects that do not use shared transformers.}*

If Seller has sold Product (or product that would be considered "Product" under this Agreement if it were attributable to the Delivery Term) to any party other than SCE with respect to a period that is prior to the Commercial Operation Date, Seller shall, or shall cause such party to: (i) take all actions necessary for SCE to be the Account Holder as of the Commercial Operation Date, and (ii) take all actions necessary for SCE to be the Qualified Reporting Entity prior to the generation of any WREGIS Certificates associated with deliveries of Product on and after the Commercial Operation Date. SCE agrees to transfer all WREGIS Certificates associated with generation from the Generating Facility prior to the Commercial Operation Date to Seller or Seller's designee. Seller agrees to indemnify, defend and hold harmless SCE from and against any and all loss, liability, damage, claim, cost or expense of any kind or nature (including any direct, damage, claim, cost, charge, demand, or expense, and attorneys' fee (including the cost of in-house counsel)) and other costs of litigation, arbitration and mediation, arising out of or in connection with SCE's transfer to Seller or Seller's designee of WREGIS Certificates associated with renewable power generated by the Generating Facility prior to the Commercial Operation Date; *{SCE Comment: Language only applicable to projects that do not use shared transformers.}*

Complying with Applicable Laws regarding the certification and transfer of Renewable Energy Credits, including cooperation with the Western

Renewable Energy Generation Information System (“WREGIS”) or other process recognized under Applicable Laws for the registration, transfer or ownership of Green Attributes associated with the Generating Facility. Seller, at its own cost (which cost shall not be subject to the Compliance Expenditure Cap), shall serve as, or shall engage CAISO or some other mutually agreed entity, to serve as the Qualified Reporting Entity for the Generating Facility. Seller shall act as the Account Holder for the Generating Facility and shall effectuate the transfer to SCE of all WREGIS Certificates associated with or attributable to the Metered Amounts within five (5) Business Days of Seller’s receipt of, or creation in Seller’s WREGIS account of, such WREGIS Certificates; *{SCE Comment: Language only applicable to projects that utilize shared transformers.}*

- (v) Committing to SCE the entire Metered Amounts of the Generating Facility; and
- (vi) Pursuing and obtaining any and all Capacity Attributes and Resource Adequacy Benefits to the extent that Applicable Laws, including as may be changed after the Effective Date, allow for any Capacity Attributes or Resource Adequacy Benefits to be obtained other than by the completion of Delivery Network Upgrades.

- (e) Bioenergy Benefits. For all electric generation using biomethane as fuel, Seller shall transfer to SCE sufficient renewable and environmental attributes of biomethane production and capture to ensure that there are zero (0) net emissions associated with the production of electricity from the Generating Facility using the biomethane.

For all electric generation using biomethane as fuel, neither SCE nor Seller may make a marketing, regulatory, or retail claim that asserts that a procurement contract to which that entity was a party resulted, or will result, in greenhouse gas reductions related to the destruction of methane if the capture and destruction is required by law. If the capture and destruction of the biomethane is not required by law, neither SCE nor Seller may make a marketing, regulatory, or retail claim that asserts that a procurement contract to which that entity was a party resulted, or will result, in greenhouse gas reductions related to the destruction of methane, unless the environmental attributes associated with the capture and destruction of the biomethane pursuant to that contract are transferred to SCE and retired on behalf of the retail customers consuming the electricity associated with the use of that biomethane, or unless Seller’s procurement contract with the source of biomethane prohibits the source of biomethane from separately marketing the environmental attributes associated with the capture and destruction of the biomethane sold pursuant to that contract, and such attributes have been retired. *{SCE Comment: Biomethane projects only.}*

3.02 Resource Adequacy Performance Obligation.

Commencing on the [later of] the Commercial Operation Date [and the Date bid as the RA Guarantee Date], and throughout the [remainder of the] {if Seller's offer included delivering Resource Adequacy Benefits commencing on a date later than the Forecasted Commercial Operation Date} Term, in each month, Seller shall pay to SCE an amount (the "RA Deficit Payments") equal to the product of (a) the difference, expressed in kW, of (i) the Qualifying Capacity of the Generating Facility for the applicable month, minus (ii) the Net Qualifying Capacity of the Generating Facility for the applicable month, multiplied by (b) the then-current CPM Capacity price as listed in Section 43.7.1 of the CAISO Tariff or its equivalent successor (the "Multiplier"), expressed in \$/kW-month. Should the CPM Capacity price cease to be published by the CAISO and no equivalent successor is published, the Multiplier shall be equal to the last CPM Capacity price listed in the CAISO Tariff and escalated by two percent (2%) every twelve (12) months thereafter. In any event, the Multiplier may not exceed \$120/kW-year.

{SCE Comment: Only Generating Facilities providing guaranteed delivery of Resource Adequacy Benefits.}

3.03 Other Sales of Product.

Throughout the Delivery Term, Seller shall not sell the Product (or any portion thereof) to any entity other than SCE.

3.04 Allocation of Availability Incentive Payments and Non-Availability Charges.

If the Generating Facility is subject to the terms of the Availability Standards, Non-Availability Charges, and Availability Incentive Payments as contemplated under Section 40.9 of the CAISO Tariff, any Availability Incentive Payments will be for the benefit of Seller and for Seller's account and any Non-Availability Charges will be the responsibility of Seller and for Seller's account.

3.05 Permits, Interconnection and Transmission Service Agreements, and CAISO Tariff Compliance.

- (a) Seller shall obtain and maintain throughout the Delivery Term any and all interconnection and transmission service rights and Permits required to effect delivery of the electric energy from the Generating Facility to the Delivery Point.
- (b) Seller shall be responsible for all costs and charges directly caused by, associated with, or allocated to the interconnection of the Generating Facility to the Transmission Provider's electric system and transmission of electric energy from the Generating Facility to the Transmission Provider's electric system.
- (c) Seller shall comply with the CAISO Tariff, including securing and maintaining in full force all required CAISO agreements, certifications and approvals.
- (d) Seller shall secure through the CAISO the CAISO Resource ID that is to be used solely for the Generating Facility.

- (e) Seller shall comply with the requirements of Appendix H to Appendix CC of the CAISO Tariff.

{SCE Comment: Language applicable to projects that do not utilize Shared Facilities.}

- (a) Seller shall obtain and maintain throughout the Delivery Term any and all interconnection and transmission service rights and Permits required to effect delivery of the electric energy from the Generating Facility to the Delivery Point. The interconnection agreement shall provide for interconnection capacity available or allocable to the Generating Facility that is no less than the Contract Capacity. The Parties acknowledge that ownership and use of the Shared Facilities (including the interconnection agreement itself) may be subject to a co-tenancy or similar sharing agreement (collectively, “Shared Facilities Agreement(s)”), under which Shared Facilities Agreements an Affiliate of Seller may act as a manager on behalf of Seller and the Other Seller(s) under the interconnection agreement (“Affiliate Manager”). Seller shall ensure that, during the Startup Period and throughout the Term, Seller shall have sufficient interconnection capacity and rights under or through the interconnection agreement and the Shared Facilities Agreements, if any, to interconnect the Generating Facility with the CAISO-Controlled Grid and fulfill its obligations under this Agreement. In connection with the interconnection agreement and the Shared Facilities Agreements, if any, the following shall apply:

- (i) The Shared Facilities Agreements shall provide that:

- (1) the Other Seller(s), the Affiliate Manager and the Interconnection Affiliate (if different from the Seller or Other Seller(s)) shall fully indemnify Seller for any liability arising out of its respective acts or omissions in regards to its respective performance obligations under the interconnection agreement and any Shared Facilities Agreement in which such party is a counterparty with Seller,
- (2) Seller shall have the right to correct, remedy, mitigate, or otherwise cure any omission, failure, breach or default by Other Seller, Affiliate Manager, or Interconnection Affiliate (if different from the Seller or Other Seller(s)) that would negatively impact Seller’s obligations under this Agreement, under the interconnection agreement, or under any Shared Facilities Agreement in which Seller is a counterparty, and
- (3) any instruction from the CAISO or Transmission Provider to curtail energy deliveries shall be allocated between the Generating Facility and the Other Generating Facility(ies) on a pro rata basis

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based upon installed capacity, except when such pro rata allocation would be in violation of the applicable curtailment instruction.

- (ii) Seller shall, or shall cause the Interconnection Affiliate (if different from Seller), to apply for and expeditiously seek FERC's acceptance of any Shared Facilities Agreement(s), if required.
- (iii) Seller shall not assign or transfer Seller's rights or obligations under the interconnection agreement or any Shared Facilities Agreement to any Person without the prior written consent of SCE, which consent shall not be unreasonably withheld.

- (b) As between SCE and Seller under this Agreement, Seller shall be responsible for all costs and charges directly caused by, associated with, or allocated to Seller, the Interconnection Affiliate, the Affiliate Manager, or the Other Seller(s) under the interconnection agreement, the Shared Facilities Agreement, if any, and the CAISO Tariff, in connection with the interconnection of the Generating Facility to the Transmission Provider's electric system and transmission of electric energy from the Generating Facility to the Transmission Provider's electric system.
- (c) Seller shall, or shall cause the Interconnection Affiliate, as applicable, to comply with the CAISO Tariff, including securing and maintaining in full force and effect all required CAISO agreements, certifications and approvals. *[Notwithstanding any other provision in this Agreement, any out-of-pocket expense that would otherwise be applied to the Compliance Expenditure Cap shall not be applied to such cap in order for Seller, or the Interconnection Affiliate, to comply with the CAISO Tariff.] {SCE Comment: Language only applicable to projects that utilize shared transformers.}*
- (d) Seller shall, or shall cause the Interconnection Affiliate, as applicable, to secure through the CAISO the CAISO Resource ID that is to be used solely for this Generating Facility.
- (e) Seller shall, or shall cause the Interconnection Affiliate, as applicable, to comply with the requirements of Appendix H to Appendix CC of the CAISO Tariff, or its equivalent successor.

{SCE Comment: Language applicable to projects that utilize Shared Facilities.}

3.06 Modification of Special Conditions.

- (a) If the Contract Capacity set forth in Section 1.01(h) is greater than the Demonstrated Contract Capacity,
 - (1) The Contract Capacity will be reduced to an amount equal to the Demonstrated Contract Capacity;

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- (2) The Expected Annual Net Energy Production will be recalculated using such adjusted Contract Capacity;
- (3) The amount of the Performance Assurance required to be posted and maintained pursuant to Section 8.02 will be recalculated using such adjusted Contract Capacity, and any amount of Performance Assurance in excess of that required for the adjusted Contract Capacity will be returned to Seller.
{SCE Comment: For all technologies except Solar Photovoltaic}

- (ii) If the Installed DC Rating set forth in Section 1.01(i) is greater than the Demonstrated Installed DC Rating,

- (1) The Installed DC Rating will be reduced to an amount equal to the Demonstrated Installed DC Rating;
- (2) The Expected Annual Net Energy Production will be recalculated using such adjusted Installed DC Rating;
- (3) The amount of the Performance Assurance required to be posted and maintained pursuant to Section 8.02 will be recalculated using such adjusted Installed DC Rating, and any amount of Performance Assurance in excess of that required for the adjusted Installed DC Rating will be returned to Seller.
{SCE Comment: For Solar Photovoltaic}

- (iii) Neither Party will have any liability for failure to purchase or deliver Product associated with or attributable to capacity in excess of the *[Demonstrated Installed DC Rating]* *{SCE Comment: For Solar Photovoltaic}* or the Demonstrated Contract Capacity (“Unincluded Capacity”), subject to Section 2.02(d).

(b) Restrictions on Sales Related to Unincluded Capacity.

- (i) Neither Seller nor Seller’s Affiliates may sell, or enter into an agreement to sell, electric energy, Green Attributes, Capacity Attributes or Resource Adequacy Benefits associated with or attributable to Unincluded Capacity from any generating facility installed at the Site to a party other than SCE for a period of two (2) years following SCE’s Notice to Seller of Seller’s partial forfeiture of the Development Security pursuant to Section 3.06(f).
- (ii) With respect to Seller’s Affiliates, the prohibition on contracting and sale as set forth in Section 2.02(d)(i) will not apply if, before entering into the contract or making a sale to a party other than SCE, any Seller’s Affiliate wishing to enter into a contract or sale provides SCE with a written offer to sell the electric energy, Green Attributes, Capacity Attributes and Resource Adequacy Benefits related to Unincluded Capacity to SCE on terms and conditions materially similar to or no less favorable to SCE than

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the terms and conditions contained in this Agreement and SCE fails to accept such offer within forty-five (45) days after SCE's receipt thereof; *provided*, any Seller's Affiliate wishing to enter into a contract or sale must:

- (1) Build a new generating facility separate from the Generating Facility to produce such additional electric energy and associated attributes;
- (2) Establish an entity other than Seller to act as the seller for such additional electric energy and associated attributes;
- (3) Meter such additional generating capacity separately from the Generating Facility, to SCE's reasonable satisfaction; and
- (4) Separately interconnect such additional generating capacity to the Transmission Provider's system, to SCE's reasonable satisfaction.

If the preceding conditions are met, Seller's Affiliates (but not Seller) will be free to sell such additional electric energy and associated attributes to third parties.

(c) Failure to Meet the Commercial Operation Deadline.

Subject to Seller's right to extend the Commercial Operation Deadline as provided in Section 1.03 and Section 5.03 (for Force Majeure where Seller is the Claiming Party), in the event that (i) Seller and SCE mutually agree that Commercial Operation will not occur on or before the Commercial Operation Deadline; (ii) the Commercial Operation Date will not occur due to any termination of this Agreement as a result of an Event of Default by Seller occurring on or before the Commercial Operation Deadline; (iii) the procurement of *[the applicable electrical generating equipment]* for the Generating Facility does not occur within ninety (90) days after the applicable date set forth in the Milestone Schedule; (iv) close of construction financing for the Generating Facility is not completed within one hundred twenty (120) days after the applicable date set forth in the Milestone Schedule; or (v) Seller abandons the Generating Facility prior to the Commercial Operation Date occurring, SCE shall be entitled to:

- (A) The entire Development Security, including the right to draw on and retain for its sole benefit any Letter of Credit and the proceeds thereof, as well as any cash, posted as Development Security; and
- (B) Terminate this Agreement;

provided, SCE shall give Notice to Seller of any determination under Sections 3.06(c)(iii) through (v) that the Commercial Operation Date is unlikely to occur on or before the Commercial Operation Deadline, and if within thirty (30) days from the date of such Notice Seller can establish to SCE's reasonable satisfaction

that the Commercial Operation Date is likely to occur on or before the Commercial Operation Deadline, SCE may not terminate the Agreement prior to the Commercial Operation Deadline or retain the Development Security at that time, but shall retain all other rights under this Agreement, including the right to terminate the Agreement and retain the entire Development Security if the Commercial Operation Date does not occur on or before the Commercial Operation Deadline in accordance with clause (ii) of the first paragraph of this Section 3.06(c).

If SCE terminates this Agreement pursuant to this Section 3.06(c), any amount of Development Security that Seller has not yet posted with SCE will be immediately due and payable by Seller to SCE.

In addition, subject to Section 2.04(b), if SCE terminates this Agreement pursuant to this Section 3.06(c), neither Party shall have liability for damages for failure to deliver or purchase Product after the effective date of such termination, and the Forward Settlement Amount will be Zero dollars (\$0).

(d) Daily Delay Liquidated Damages to Extend Commercial Operation Deadline.

Seller may extend the Commercial Operation Deadline by paying to SCE damages in an amount equal to one percent (1%) of the Development Security per day for each day (or portion thereof) from and including the Commercial Operation Deadline to and excluding the Commercial Operation Date ("Daily Delay Liquidated Damages").

To extend the Commercial Operation Deadline, Seller must, at the earliest possible time, but no later than 6 a.m. on the first day of the proposed Commercial Operation Deadline extension, provide SCE with Notice of its election to extend the Commercial Operation Deadline along with Seller's estimate of the duration of the extension and its payment of Daily Delay Liquidated Damages for the full estimated Commercial Operation Deadline extension period.

Seller may further extend the Commercial Operation Deadline beyond the original Commercial Operation Deadline extension period subject to the same terms applicable to the original Commercial Operation Deadline extension.

The Daily Delay Liquidated Damages payments applicable to days included in any Commercial Operation Deadline extension are nonrefundable and are in addition to, and not a part of, the Development Security.

Seller will be entitled to a refund (without interest) of any estimated Daily Delay Liquidated Damages payments paid by Seller which exceed the amount required to cover the number of days by which the Commercial Operation Deadline was actually extended.

In no event may Seller extend the Commercial Operation Deadline for more than a total of one hundred eighty (180) days by the payment of Daily Delay Liquidated Damages.

The contents of this document are subject to restrictions on disclosure as set forth herein.

(e) Full Return of Development Security.

Subject to Section 8.01(c)(i) and the Commercial Operation Date occurring on or before the Commercial Operation Deadline or any extended Commercial Operation Deadline as provided in this Agreement, if Seller demonstrates the full [Installed DC Rating specified in Section 1.01(i)] {SCE Comment: For Solar Photovoltaic} [Contract Capacity specified in Section 1.01(h)] {SCE Comment: For all technologies except Solar Photovoltaic}, SCE shall return the full Development Security.

(f) Partial Return of Development Security.

If Commercial Operation occurs on or before the Commercial Operation Deadline, but the Demonstrated Contract Capacity is less than the Contract Capacity set forth in Section 1.01(h), then Prior to the Commercial Operation Date (and as a condition to its occurrence), Seller shall pay SCE an amount equal to the product of [Dollar amount text] dollars (\$[Number]) {SCE Comment: amount to be provided by SCE} per kW and the difference (in kW) between the original Contract Capacity set forth in Section 1.01(h) and the Demonstrated Contract Capacity; provided that, with SCE's consent, Seller may elect to apply its Development Security toward this payment.
{SCE Comment: For all technologies except Solar Photovoltaic}

If Commercial Operation occurs on or before the Commercial Operation Deadline, but the Demonstrated Installed DC Rating is less than the Installed DC Rating set forth in Section 1.01(i), prior to the Commercial Operation Date (and as a condition to its occurrence), Seller shall pay SCE an amount equal to the product of [Dollar amount text] dollars (\$[Number]) {SCE Comment: amount to be provided by SCE} per kW and the difference (in kW) between the original Installed DC Rating set forth in Section 1.01(i) and the Demonstrated Installed DC Rating; provided that, with SCE's consent, Seller may elect to apply its Development Security toward this payment.
{SCE Comment: For Solar Photovoltaic}

3.07 Seller's Energy Delivery Obligation.

On the commencement of the first Term Year and for every Term Year thereafter, Seller is subject to the electric energy delivery requirements and damages for failure to perform as set forth in this Section 3.07.

(a) Performance Requirements.

(i) Seller's Energy Delivery Obligation.

“Seller’s Energy Delivery Obligation” for the twenty-four (24) month period immediately preceding the end of each Term Year commencing at the end of the second Term Year (“Calculation Period”) is one hundred forty percent (140%) of the Expected Annual Net Energy Production.

{SCE Comment: Wind only.}

“Seller’s Energy Delivery Obligation” for the twenty-four (24) month period immediately preceding the end of each Term Year commencing at the end of the second Term Year (“Calculation Period”) is one hundred seventy percent (170%) of the average of the two (2) Expected Annual Net Energy Production amounts applicable to the Calculation Period.

{SCE Comment: All other intermittent technologies.}

“Seller’s Energy Delivery Obligation” for the twelve (12) month period immediately preceding the end of each Term Year commencing at the end of the first Term Year (“Calculation Period”) is ninety percent (90%) of the Expected Annual Net Energy Production.

{SCE Comment: Baseload technologies.}

(ii) Event of Deficient Energy Deliveries.

At the end of each Term Year commencing with the end of the second Term Year, if the sum of Qualified Amounts plus any Lost Output (calculated in accordance with Exhibit K) in the applicable Calculation Period does not equal or exceed Seller’s Energy Delivery Obligation, then an Event of Deficient Energy Deliveries will be deemed to have occurred.

{SCE Comment: Wind and Solar only.}

At the end of each Term Year if the sum of the Qualified Amounts plus any Lost Output (calculated in accordance with Exhibit K) during the Term Year does not equal or exceed Seller’s Energy Delivery Obligation, then an Event of Deficient Energy Deliveries will be deemed to have occurred.

{SCE Comment: All other technologies.}

(b) Product Replacement Damage Amount.

If an Event of Deficient Energy Deliveries occurs, as determined in accordance with Section 3.07(a)(ii) above, the Parties acknowledge that the damages sustained by SCE associated with an Event of Deficient Energy Deliveries would be difficult or impossible to determine, or that obtaining an adequate remedy would be unreasonably time consuming or expensive, and therefore agree that Seller shall pay SCE as liquidated damages an amount which is intended to compensate SCE for Seller’s failure to perform, irrespective of whether SCE actually purchased replacement Product by reason of Seller’s failure to perform (the “Product Replacement Damage Amount”).

- (i) Within ninety (90) days after the end of the applicable Term Year, SCE shall calculate any Product Replacement Damage Amount as set forth in Exhibit F, and shall provide Notice to Seller of any Product Replacement Damage Amount owing, including a detailed explanation of, and rationale for, its calculation methodology, annotated work papers and source data.
 - (ii) Seller shall have thirty (30) days after receipt of SCE's Notice to review SCE's calculation and either pay the entire Product Replacement Damage Amount claimed by SCE or pay any undisputed portion and provide Notice to SCE of the portion Seller disputes along with a detailed explanation of, and rationale for, Seller's calculation methodology, annotated work papers and source data.
 - (iii) The Parties shall negotiate in good faith to resolve any disputed portion of the Product Replacement Damage Amount and shall, as part of such good faith negotiations, promptly provide information or data relevant to the dispute as each Party may possess which is requested by the other Party.
 - (iv) If the Parties are unable to resolve a dispute regarding any Product Replacement Damage Amount within thirty (30) days after the sending of a Notice of dispute by Seller, either Party may submit the dispute to mediation and arbitration as provided in Article Twelve.
- (c) Continuing Obligations of Seller.
- Notwithstanding any payment of a Product Replacement Damage Amount, all of Seller's obligations under Section[s] 3.01 [and 3.02] continue to apply.

3.08 Metering, Communications, Telemetry and Meteorological Station(s).

(a) CAISO Approved Meter.

Seller shall, at its own cost, install, maintain and test all CAISO Approved Meters pursuant to the CAISO Tariff. *{SCE Comment: Language applicable to projects that do not use a shared transformer.}*

Seller shall, at its own cost, install, maintain and test all CAISO Approved Meters pursuant to the CAISO Tariff and the CAISO Exemption, so long as such CAISO Exemption is valid and in effect. Such CAISO Approved Meters, and any associated equipment, shall be installed and maintained in a manner that is sufficient to meter the Generating Facility separately from the Other Seller(s). *{SCE Comment: Language only applicable to projects that utilize a shared transformers.}*

(b) Check Meter.

Seller will permit SCE to furnish and install one Check Meter on the high voltage side of the step-up transformer, substation, or any other location at SCE's sole

discretion, associated with the Generating Facility in compliance with the applicable utility electric service requirements. Each Check Meter must be interconnected with SCE's communication network to permit:

- (i) Periodic, remote collection of revenue quality meter data; and
- (ii) Back-up real time transmission of operating-quality meter data.

{SCE Comment: Language applicable to projects that do not use a shared transformer.}

Seller will permit SCE to furnish and install one or more Check Meters in compliance with the applicable utility electric service requirements and installed in a manner that is sufficient for SCE to meter the Generating Facility separately from the Other Seller(s). All costs associated with the procurement and installation of the Check Meter(s) shall be borne by Seller. Each Check Meter must be interconnected with SCE's communication network to permit:

- (i) Periodic, remote collection of revenue quality meter data; and
- (ii) Back-up real time transmission of operating-quality meter data.

{SCE Comment: Language only applicable to projects that utilize a shared transformer.}

(c) SCE's Access to Meters.

- (i) Subject to Section 3.18, Seller hereby grants SCE reasonable access to all CAISO Approved Meters and Check Meters for meter readings and any purpose necessary to effectuate this Agreement.
- (ii) Seller shall promptly provide SCE access to all meter data and data acquisition services both in real-time, and at later times, as SCE may reasonably request.
- (iii) Prior to the Commercial Operation Date, Seller shall provide instructions to the CAISO granting authorizations or other documentation sufficient to provide SCE with access to the CAISO Approved Meter(s) and to Seller's settlement data on OMAR.

(d) CAISO Approved Meter Maintenance.

- (i) Seller shall test and calibrate the CAISO Approved Meter(s), as necessary, but in no event will the period between testing and calibration dates be greater than twelve (12) months.
- (ii) Seller shall bear its own costs for any meter check or recertification of the CAISO Approved Meter(s).

- (iii) Seller shall replace each CAISO Approved Meter battery at least once every thirty-six (36) months or such shorter period as may be recommended by the CAISO Approved Meter manufacturer.

Notwithstanding the foregoing, if a CAISO Approved Meter battery fails, Seller shall replace such battery within one (1) day after becoming aware of its failure.
- (iv) Seller shall use certified test and calibration technicians to perform any work associated with the CAISO Approved Meter(s).
- (v) Seller shall inform SCE of test and calibration dates, provide SCE with access to observe and witness such testing and calibration, and provide SCE certified results of tests and calibrations within thirty (30) days after completion.

(e) SCADA and Telemetry System.

All communication, metering, telemetry, and associated generation operation equipment will be centralized into the Generating Facility's SCADA. Seller shall configure the SCADA so that SCE may access it via the GMS from the GOC. Seller shall link the systems via an approved SCE communication network, utilizing existing industry standard network protocol, as approved by SCE. The connection will be bidirectional in nature and used by the Parties to exchange all data points to and from the GOC. Seller shall be responsible for the costs of installing, configuring, maintaining and operating the SCADA and internal site links for the Generating Facility.

Seller shall be responsible for designing, furnishing, installing, operating, maintaining and testing a real time Telemetry System capable of interconnecting to the GMS, the CAISO Approved Meter(s) and the Generating Facility's control system with the CAISO's Energy Communication Network.

The Telemetry System shall be designed in accordance with the CAISO monitoring and communication requirements and must be capable of:

- (i) Reporting data from each CAISO Approved Meter;
- (ii) Providing the status of key control points from the Generating Facility's control system;
- (iii) Routing generating unit set points to the Generating Facility's control system; and
- (iv) Communicating availability of the Generating Facility pursuant to Section 3.08(g).

The Telemetry System must include a data processing gateway, internet connection, interconnecting cabling and all service agreements required for accessing the CAISO's Energy Communications Network.

The contents of this document are subject to restrictions on disclosure as set forth herein.

The above mentioned connections and data transfer must be included in the systems engineering tasks as a part of the construction of the Generating Facility, and must be fully functional before Commercial Operation.

(f) Meteorological Station(s) and Reporting Requirements.

Seller, at its own expense, shall install and maintain one (1) or more stand-alone meteorological stations at the Generating Facility in accordance with Exhibit P to monitor and report weather data to both the CAISO and the existing SCE weather station data collection system.

The station(s) must be installed at least sixty (60) days before Commercial Operation.

The station(s) must be equipped with the Meteorological Equipment, as may be modified by Seller at SCE's direction from time to time to reflect the CAISO's PIRP/EIRP protocol and the requirements of Exhibit K.

The station(s) must be designed to collect and record data in accordance with CAISO's PIRP/EIRP protocols and the requirements of Exhibit K.

Data reports must be formatted in a manner consistent with the CAISO requirements published on the CAISO internet website.

Telemetry equipment must be designed to function in accordance with CAISO's PIRP/EIRP protocols.

The station(s) must be equipped to measure and record the minimum data required by the CAISO, in the manner specified by the CAISO.

Seller shall submit to SCE for review and approval, Seller's technical specifications for the meteorological station(s) along with a site plan showing the location of the station(s), the location of all *[Wind Turbines, the wind rose for the Site], [Solar Generating Units, Photovoltaic Modules, Current Inverters,]* and other prominent features, as applicable.

{SCE Comment: Intermittent only.}

Seller shall calibrate all first and second class thermopile pyranometers to the same nationally recognized standard and apply temperature correction to the measurement. Seller's Telemetry System shall transmit the calibrated data to SCE. Such temperature correction shall be based upon a calibration of the actual instrument or to a generic temperature curve that is supported by data from a nationally recognized testing laboratory to be representative of the exact vintage and model of instruments to be used by the Seller. Furthermore, Seller shall calibrate all thermopile pyranometers, regardless of type, every Term Year and upon SCE's reasonable request.

{SCE Comment: Solar photovoltaic only.}

(g) Real-Time Communication of Availability.

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (i) Prior to the Commercial Operation Date, Seller shall install a telecommunication system and demonstrate to SCE's reasonable satisfaction that the system interfaces with the Web Client and the GMS to provide SCE with Seller's Real-Time Availability.
- (ii) Seller shall maintain the telecommunications path, the hardware, and software to provide quality data to SCE throughout the Delivery Term.
- (iii) Upon Notice from SCE, Seller shall repair or have corrected as soon as possible, but no later than five (5) days after receipt of such Notice any:
 - (1) Inoperable telecommunications path;
 - (2) Inoperable software; or
 - (3) Faulty instrumentation.
- (iv) Seller shall submit an Actual Availability Report pursuant to Section 3.22 for any month in which Seller's telecommunications system was not available or did not provide quality data for longer than twenty-four (24) continuous hours.

3.09 Site Location and Control.

- (a) This Agreement is Site specific as set forth in Section 1.01(b). Seller may change the location of the Site only upon SCE's prior written consent, which consent is in SCE's sole discretion.
- (b) Seller shall have Site Control *[and Shared Facilities Control]* from the Effective Date and continuing throughout the Term. *{SCE Comment: Bracketed language only applicable to projects that have Shared Facilities.}*
- (c) Seller shall provide SCE with prompt Notice of any change in the status of Seller's Site Control *[or Shared Facilities Control]*. *{SCE Comment: Bracketed language only applicable to projects that have Shared Facilities.}*

3.10 Change in Structure, Ownership or Financing.

Seller shall provide Notice to SCE within five (5) Business Days after a change in the status of any of the following:

- (a) Seller's exact and complete name, form of organization, direct or indirect ownership and state of incorporation or organization, or address of Seller's principal place of business; and
- (b) Seller's construction-period financing and Operating-period financing, including the sources of equity investments and debt financings.

No Notice provided pursuant to this Section 3.10 constitutes or substitutes for any consent required pursuant to Sections 10.04 or 10.05.

3.11 Design.

The contents of this document are subject to restrictions on disclosure as set forth herein.

At no cost to SCE, Seller shall be responsible for:

- (a) Designing and constructing the Generating Facility;
- (b) Using commercially reasonable efforts to acquire all Permits;
- (c) Providing to SCE, at least thirty (30) days before the anticipated Commercial Operation Date, the following Generating Facility information:
 - (i) Site plan drawings for the Generating Facility;
 - (ii) Electrical one-line diagrams;
 - (iii) Control and data-acquisition details and configuration documents;
 - (iv) Major electrical equipment specifications;
 - (v) General arrangement drawings;

(vi) Longitude and latitude of the centroid of the Site;
{SCE Comment: Solar only}

Longitude and latitude of each generator;
{SCE Comment: All other technologies}

- (vii) Artist renderings of the Site, if any;
- (viii) Aerial photographs of the Site, if any;

- (ix) Site plan drawing of the geothermal well field;
- (x) Process flow diagrams;
- (xi) Piping and instrumentation diagrams;
- (xii) Production well flow rates;
- (xiii) Injection well flow rates and volumes;
- (xiv) Wellhead pressures;
- (xv) Geothermal fluid chemistry;
- (xvi) Non-condensable gas composition;
- (xvii) Current Inverter specification;
- (xviii) Photovoltaic Module specification;
- (xix) Solar energy collection grid diagrams;
- (xx) Wind Turbine specification;
- (xxi) Wind energy collection grid diagrams;
- (xxii) Topographical maps showing the location of all Wind Turbines, and specifying the Wind Turbine model and Site-specific identification number; and

The contents of this document are subject to restrictions on disclosure as set forth herein.

(xxiii) Map showing the location of the Meteorological Equipment, including specifying the longitude and latitude of such.

(xxiv) Copies of all Shared Facilities Agreements.

{SCE Comment: Include subsections above when applicable to the Generating Facility.}

- (d) Providing SCE advance Notice at the earliest practicable time of any proposed material changes in the Generating Facility, but in no event less than thirty (30) days before the changes are to be made, which Notice must include the information set forth in Section 3.11(c), along with all specifications and drawings pertaining to any such changes and any changes to Exhibit B. SCE shall retain the right to review such proposed changes and accept or reject such changes in its sole discretion.
- (e) Providing to SCE, prior to commencement of any construction activities on the Site, a report from an independent engineer (acceptable to both SCE and Seller) certifying that Seller has a written plan for the safe construction and Operation of the Generating Facility in accordance with Prudent Electrical Practices.

3.12 Operation and Record Keeping.

- (a) Seller shall Operate the Generating Facility in accordance with Prudent Electrical Practices.
- (b) Seller shall comply with Operating orders in compliance with the CAISO Tariff.
- (c) On or prior to the Commercial Operation Date:
 - (i) SCE shall have obtained or waived CPUC Approval;
 - (ii) Seller shall obtain CEC Pre-Certification;
 - (iii) Seller shall take all steps necessary to ensure that SCE becomes authorized by the CAISO to Schedule the electric energy produced by the Generating Facility with the CAISO;
 - (iv) SCE shall have been authorized by the CAISO to Schedule the electric energy produced by the Generating Facility with the CAISO;
 - (v) Seller shall demonstrate to SCE's reasonable satisfaction that Seller has executed all necessary Transmission Provider and CAISO agreements;
 - (vi) Seller shall provide to SCE the DLF used by the Transmission Provider in the administration of the transmission service agreement for the Generating Facility;
 - (vii) Seller shall be Forecasting to SCE in accordance with Exhibit D;

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (viii) Seller shall commence delivering electric energy to SCE at the Delivery Point and the Generating Facility is operating in parallel with Seller's Transmission Provider;
- (ix) Seller shall have installed and placed in operation all equipment and systems required under Section 3.08;
{SCE Comment: Intermittent only.}
- (x) Seller shall have registered with the NERC as the Generating Facility's Generator Owner and Generator Operator if Seller is required to be a registered entity pursuant to the NERC Reliability Standards; and
- (xi) Seller shall have furnished to SCE all insurance documents required under Section 10.11.
- (d) Seller shall keep a daily operations log for the Generating Facility that shall include the following information:
 - (i) Availability of the Generating Facility;
{SCE Comment: All technologies except Solar Photovoltaic.}
 - Availability of the Inverter Block Units and associated Current Inverters;
{SCE Comment: Solar Photovoltaic only.}
 - (ii) Circuit breaker trip operations;
 - (iii) Any significant events related to the Operation of the Generating Facility;
 - (iv) Real and reactive power and energy production;
 - (v) Changes in Operating status;
 - (vi) Protective apparatus operations;
 - (vii) Any unusual conditions found during inspections;
 - (viii) Electric energy production, fuel consumption and efficiency (if applicable); and
 - (ix) Status and settings of generator controls including automatic voltage regulator and power system stabilizer.
- (e) Seller shall log changes in the generator output setting if it is "block-loaded" to a specific kW capacity.
{SCE Comment: Baseload only.}
- Seller shall maintain complete records of the Generating Facility's wind speeds and other pertinent meteorological conditions and operational status of each Wind Turbine.
{SCE Comment: Wind only.}

Seller shall maintain complete records of the Generating Facility's direct normal insolation, other pertinent meteorological conditions and operational status of each Solar Generating Unit.

{SCE Comment: Solar Thermal only.}

Seller shall maintain complete records of the Generating Facility's plane of array insolation, other pertinent meteorological conditions and operational status of each Inverter Block Unit.

{SCE Comment: Solar Photovoltaic only.}

Seller shall maintain complete records of the Generating Facility's fuel consumption if a biomass or landfill generating facility, or geothermal fluid consumption if a geothermal generating facility.

{SCE Comment: Biomass and Geothermal only.}

- (f) Seller shall keep a maintenance log for the Generating Facility that shall include information on maintenance (both breakdown and preventative) performed, outages, inspections, manufacturer recommended services and replacement, electrical characteristics of the generators, control settings or adjustments of equipment and protective devices.

Seller shall maintain documentation of all procedures applicable to the testing and maintenance of the Generating Facility protective devices as necessary to comply with NERC Reliability Standards applicable to protection systems for large electric generators, if Seller is required to be a registered entity pursuant to the NERC Reliability Standards.

Such information in Sections 3.12(d), 3.12(e) and 3.12(f) above shall be provided or made available to SCE within twenty (20) days after any Notice.
- (g) Seller shall promptly curtail the production of the Generating Facility:
 - (i) Upon Notice from SCE that Seller has been instructed by the CAISO or Transmission Provider to curtail energy deliveries; *provided*, solely the action of the CAISO issuing a Schedule shall not by itself constitute an instruction by the CAISO to curtail energy deliveries pursuant to this Section 3.12(g)(i);
 - (ii) Upon Notice that Seller has been given a curtailment order or similar instruction in order to respond to an Emergency; or
 - (iii) If SCE issues a Curtailment Order.
- (h) Information maintained pursuant to this Section 3.12 shall be kept by Seller throughout the Delivery Term and shall be provided or made available to SCE within twenty (20) days after any Notice.
- (i) Seller must be interfaced with SCE's Generation Management System and be responsive to 5-minute Dispatch Instruction and other applicable CAISO Tariff rules.

The contents of this document are subject to restrictions on disclosure as set forth herein.

3.13 Obtaining Scheduling Coordinator Services.

Seller shall comply with all applicable CAISO Tariff procedures, protocol, rules and testing as necessary for SCE to submit Bids for the electric energy produced by the Generating Facility.

(a) Designating SCE as Scheduling Coordinator.

- (i) At least thirty (30) days before the Commercial Operation Date, Seller shall take all actions and execute and deliver to SCE all documents necessary to authorize or designate SCE as the Scheduling Coordinator throughout the Delivery Term.
- (ii) Throughout the Delivery Term, Seller shall not authorize or designate any other party to act as Scheduling Coordinator, nor shall Seller perform, for its own benefit, the duties of Scheduling Coordinator.
- (iii) Seller is responsible for and shall pay SCE an amount equal to the costs (including the costs of SCE employees or agents) SCE incurs, as determined in SCE's sole discretion, as a result of SCE being designated as the Generating Facility's Scheduling Coordinator including the costs associated with the registration of the Generating Facility with the CAISO, and the installation, configuration, and testing of all equipment and software necessary for SCE to act as Scheduling Coordinator or to Schedule the Generating Facility ("SC Set-Up Fee"); *provided*, the SC Set-up Fee shall not exceed \$20,000.

(b) Replacement of SCE as Scheduling Coordinator.

At least forty-five (45) days before the end of the Term, or as soon as practicable before the date of any termination of this Agreement before the end of the Term, Seller shall take all actions necessary to terminate the designation of SCE as Seller's Scheduling Coordinator as of hour ending 24:00 on the last day of the Term. These actions include the following:

- (i) Seller shall submit to the CAISO a designation of a new Scheduling Coordinator for Seller to replace SCE;
- (ii) Seller shall cause the newly designated Scheduling Coordinator to submit a letter to the CAISO accepting the designation; and
- (iii) Seller shall inform SCE of the last date on which SCE will be Seller's Scheduling Coordinator. SCE must consent to any date other than the last day of the Term, such consent not to be unreasonably withheld.

3.14 Forecasting.

Seller shall Forecast in accordance with the provisions of Exhibit D.

Seller shall use commercially reasonable efforts to Operate the Generating Facility so that the available capacity or electric energy from the Generating Facility conforms with Forecasts provided in accordance with Exhibit D.

3.15 Scheduled Outages.

- (a) Commencing at least sixty (60) days before the Commercial Operation Date and throughout the Delivery Term, Seller shall, no later than January 1, April 1, July 1 and October 1 of each year, submit to SCE, using the Web Client, Seller's schedule of proposed planned outages ("Outage Schedule") for the subsequent twenty-four month period.
- (b) Seller shall provide the following information for each proposed planned outage:
 - (i) Start date and time;
 - (ii) End date and time; and
 - (iii) Capacity online, in MW, during the planned outage.
- (c) Within thirty (30) days after SCE's receipt of an Outage Schedule, SCE shall notify Seller in writing of any reasonable request for changes to the Outage Schedule, and Seller shall, consistent with Prudent Electrical Practices, accommodate SCE's requests regarding the timing of any planned outage.
- (d) Seller shall cooperate with SCE to arrange and coordinate all Outage Schedules with the CAISO.
- (e) If a condition occurs at the Generating Facility which causes Seller to revise its planned outages, Seller shall promptly provide Notice to SCE, using the Web Client, of such change (including an estimate of the length of such planned outage) as required in the CAISO Tariff after the condition causing the change becomes known to Seller.
- (f) Seller shall promptly prepare and provide to SCE upon request, using the Web Client, all reports of actual or forecasted outages that SCE may reasonably require for the purpose of enabling SCE to comply with Section 761.3 of the California Public Utilities Code or any Applicable Law mandating the reporting by investor owned utilities of expected or experienced outages by electric energy generating facilities under contract to supply electric energy.

3.16 Progress Reporting Toward Meeting Milestone Schedule.

Seller shall use commercially reasonable efforts to meet the Milestone Schedule and avoid or minimize any delays in meeting this schedule. Seller shall provide a monthly written report of its progress toward meeting the Milestone Schedule using the procedures set forth in Exhibit H.

Seller shall include in such report a list of all letters, notices, applications, approvals, authorizations, filings, permits and licenses relating to any Transmission Provider,

Governmental Authority or the CAISO and shall provide any such documents as may be reasonably requested on Notice from SCE.

In addition, Seller shall advise SCE as soon as reasonably practicable of any problems or issues of which Seller is aware which may materially impact Seller's ability to meet the Milestone Schedule.

A report delivered pursuant to this Section 3.16 shall not constitute Notice for any purpose under this Agreement, including with respect to any fact, circumstance, request, issue, dispute or matter included in such report.

3.17 Provision of Information.

Seller shall promptly provide to SCE copies of:

- (a) Within ten (10) Business Days of receipt thereof, copies of any Interconnection Study or the interconnection agreement tendered to Seller by the Transmission Provider and, concurrently with the provision of the first Interconnection Study or interconnection agreement tendered to Seller by the Transmission Provider that may give rise to a termination right of SCE under Section 2.03(b), Seller shall also provide SCE a Notice of Seller's irrevocable election to exercise or not exercise its right to assume financial responsibility for any Excess Network Upgrade Costs pursuant to Section 2.03(b), with a failure to provide such an election deemed to be an election not to exercise such rights;
- (b) All applications and approvals or disapprovals relating to CEC Pre-Certification, CEC Certification, CEC Verification, any Permit and PIRP/EIRP (in the event SCE requests Seller to apply to be in PIRP/EIRP);
- (c) All final and revised copies of material reports, studies and analyses furnished by the CAISO or any Transmission Provider, and any correspondence related thereto, concerning the interconnection of the Generating Facility to the Transmission Provider's electric system or the transmission of electric energy on the Transmission Provider's electric system;
- (d) All notifications of adjustments in the DLF used by the Transmission Provider in the administration of the transmission service agreement for the Generating Facility within thirty (30) days of receiving such notification from the Transmission Provider;

- (e) A copy of the Final Wind Report, and any updates thereafter for the time period beginning on the Effective Date and ending on the last day of the first Term Year;
{SCE Comment: Wind only.}

All Geothermal Reservoir Reports, and any revisions thereto, for the time period beginning on the Effective Date and ending on the last day of the first Term Year;
{SCE Comment: Geothermal only.}

The contents of this document are subject to restrictions on disclosure as set forth herein.

All Solar Resource Evaluation Reports, and any revisions thereto, for the time period beginning on the Effective Date and ending on the last day of the first Term Year;
{SCE Comment: Solar only.}

- (f) Any reports, studies, or assessments of the Generating Facility prepared for Seller by an independent engineer; and
- (g) All Generating Facility and metering information as may be requested by SCE, including the following, at least thirty (30) days before the Commercial Operation Date:

For each CAISO Approved Meter:

- (i) Generating Station/Unit ID;
- (ii) CAISO Resource ID;
- (iii) CAISO Approved Meter Device ID;
- (iv) Password;
- (v) Data path (network (ECN) or modem);
- (vi) If modem, phone number;
- (vii) Copy of meter certification;
- (viii) List of any CAISO metering exemptions (if any); and
- (ix) Description of any compensation calculations such as transformer losses and line losses.

For the Generating Facility:

- (1) Utility transmission/distribution one line diagram;
- (2) Physical location, address or descriptive identification;

- (3) Latitude and longitude of *[the centroid and each corner of the Site]* *{SCE Comment: For solar only}* *[each generator of the Generating Facility]* *{SCE Comment: For all other technologies}* *[, and all Meteorological Equipment];*
{SCE Comment: Intermittent only.}

- (4) Telephone number on site;
- (5) Telephone number of control room;
- (6) Telephone number for operational issues; and
- (7) Telephone number for administrative issues.

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (h) The names of the Interconnection Point and the Delivery Point within thirty (30) days after Seller's receipt of such information from the Transmission Provider or CAISO, as applicable.

{SCE Comment: Applicable if the official names of the Interconnection Point or Delivery Point are not known as of the Effective Date.}

- (i) No later than twenty (20) days after each semi-annual period ending on June 30th or December 31st, a report listing all Diverse Business Enterprises that supplied goods or services to Seller during such period, including any certifications or other documentation of such Diverse Business Enterprises status as such and the aggregate amount paid to Diverse Business Enterprises during such period.
- (i) SCE has the right to disclose to the CPUC all such information provided by Seller pursuant to this Section 3.17(i).
- (ii) Seller shall make reasonable efforts to accommodate requests by the CPUC (or by SCE in response to a request by the CPUC) to audit Seller in order to verify data provided by Seller pursuant to this Section 3.17(i).
- (j) Internal Revenue Service tax Form W-9 and California tax Form 590 (or their equivalent), completed with Seller's information, and any other documentation necessary for SCE to comply with its tax reporting or withholding obligations with respect to Seller, within ten (10) Business Days of Seller's receipt of Notice from SCE requesting the same.

- (k) Any and all certifications or other documentation that may be deemed necessary by the Green-e® Energy National Standard or SCE to authenticate the Generating Facility's eligibility for Green-e® Energy, and any and all forms, disclosures or other documentation in connection with the annual Green-e® Energy verification and audit.
- {SCE Comment: Only applicable to GTSR Green Rate Projects only.}*

3.18 SCE's Access Rights.

Seller hereby grants SCE the right of ingress and egress to examine the Site, Generating Facility and Shared Facilities (if applicable) for any purpose reasonably connected with this Agreement or the exercise of any and all rights of SCE under Applicable Law or SCE's tariff schedules and rules on file with the CPUC. When at the Site, SCE, its authorized agents, employees and inspectors shall adhere to safety and security procedures as may reasonably be required by Seller, provided Seller has provided such procedures to SCE in writing in advance.

3.19 Obtaining and Maintaining CEC Certification, and CEC Verification.

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (a) Within thirty (30) days after the Commercial Operation Date, Seller shall file an application or other appropriate request with the CEC for CEC Certification for the Generating Facility.
- (b) Subject to Section 1.07, Seller shall take all necessary steps, including making or supporting timely filings with the CEC, to obtain and maintain CEC Certification and CEC Verification throughout the Delivery Term.
- (c) Upon request by SCE, Seller shall provide copies of all correspondence and documentation exchanged between the CEC and Seller.

3.20 Notice of Cessation or Termination of Service Agreements.

Seller shall provide Notice to SCE within one (1) Business Day after termination of, or cessation of service under, any agreement necessary to deliver Product to SCE at the Delivery Point or to meter the Metered Amounts.

3.21 Lost Output Report.

(a) Monthly Report; SCE Review.

Commencing on the Commercial Operation Date and continuing throughout the Term, Seller shall calculate Lost Output and prepare and provide to SCE a Lost Output Report by the tenth (10th) Business Day of each month in accordance with Exhibit K.

SCE will have thirty (30) days after receipt of Seller's monthly Lost Output Report or Supplemental Lost Output Report to review such report.

Upon SCE's request, Seller shall promptly provide to SCE any additional data and supporting documentation necessary for SCE to audit and verify any matters in the Lost Output Report.

(b) Disputes of Lost Output.

If SCE disputes Seller's Lost Output calculation, SCE shall provide Notice to Seller within thirty (30) days after receipt of Seller's Lost Output Report and include SCE's calculations and other data supporting its position.

The Parties shall negotiate in good faith to resolve any dispute.

If the Parties are unable to resolve a dispute within thirty (30) days after SCE's giving the dispute Notice, either Party may submit the dispute to mediation and arbitration as provided in Article Twelve.

Seller will have no right to claim any Lost Output for any month that was not identified in the original Lost Output Report for that month; *provided*, Seller may supplement the amount of Lost Output claimed ("Supplemental Lost Output") for the month with a supplemental Lost Output Report ("Supplemental Lost Output Report") if Seller can demonstrate that Seller neither knew nor could have known through the exercise of reasonable diligence about the Supplemental Lost Output within the foregoing thirty (30) day period and Seller provides the Supplemental

The contents of this document are subject to restrictions on disclosure as set forth herein.

Lost Output Report within ten (10) Business Days after learning the facts which provide the basis for the Supplemental Lost Output claim; *provided further*, in no event will SCE be obligated to accept a Supplemental Lost Output Report after thirty (30) days following the end of the applicable Term Year.

(c) Product Replacement Damage Amount Calculation.

The Lost Output amount that will be used by SCE in the Product Replacement Damage Amount calculation, set forth in Exhibit F, will be the amount calculated pursuant to Exhibit K or otherwise resolved pursuant to Section 3.21(b).

3.22 Actual Availability Report.

- (a) Throughout the Delivery Term, Seller shall prepare and provide to SCE a report with the Actual Available Capacity of the Generating Facility (an "Actual Availability Report") for each month.

This report must be in the form set forth in Exhibit O and must be delivered to SCE no later than the seventh (7th) Business Day following the end of the month which is the subject of the Actual Availability Report.

- (b) Upon SCE's request, Seller shall promptly provide to SCE any additional data and supporting documentation necessary for SCE to audit and verify any matters set forth in the Actual Availability Report.

3.23 Seller's Provision of Historic Wind Data.

- (a) Seller shall provide to SCE a minimum of one (1) year of recorded meteorological data from the Site not later than ninety (90) days before the Commercial Operation Date.

Seller may provide data from additional years if any such data is available.

- (b) Data Parameters.

For each equipment station that is installed, Seller shall provide the following data to the extent such data has been recorded:

- (i) Wind direction;
- (ii) Wind speed;
- (iii) Air temperature;
- (iv) Barometric pressure;
- (v) Relative humidity;
- (vi) Elevation of the station; and
- (vii) Latitude and longitude of the station.

- (c) Format of Data.

The contents of this document are subject to restrictions on disclosure as set forth herein.

Seller shall provide the data:

- (i) In the format to be specified by SCE; and
- (ii) In the interval in which such data was recorded.

{SCE Comment: For Wind only. SCE will require such information from Seller if the Site is in an area for which SCE has no historic information.}

3.24 Seller's Provision of Historic Solar Data.

- (a) Seller shall provide to SCE a minimum of one (1) year of recorded meteorological data from the Site not later than ninety (90) days before the Commercial Operation Date.

Seller may provide data from additional years if any such data is available.

- (b) Data Parameters.

For each equipment station that is installed, Seller shall provide the following data to the extent such data has been recorded:

- (i) Total global irradiance;
- (ii) Wind direction;
- (iii) Wind speed;
- (iv) Air temperature;
- (v) Barometric pressure;
- (vi) Relative humidity;
- (vii) Elevation of the station; and
- (viii) Latitude and longitude of the station.

- (c) Format of Data.

Seller shall provide the data:

- (i) In the format to be specified by SCE; and
- (ii) In the interval in which such data was recorded.

{SCE Comment: Solar only.}

3.25 Hydro Certification.

Seller shall provide to SCE a copy of the certification identified in Public Utilities Code Sections 2821(d)(1) and (e)(1) as evidence of Seller's compliance with Public Utilities Code Section 2821(c) within thirty (30) days of Seller's receipt of such documentation from the State Water Resources Control Board but in no event later than sixty (60) days after Commercial Operation ("Hydro Certification").

{SCE Comment: Hydro only.}

3.26 NERC Reliability Standards.

Throughout the Delivery Term, Seller shall be:

- (a) Responsible for complying with any NERC Reliability Standards applicable to the Generating Facility, including registration with NERC as the Generator Operator for the Generating Facility or other applicable category under the NERC Reliability Standards and implementation of all applicable processes and procedures required by NERC, WECC or CAISO for compliance with the NERC Reliability Standards; and
- (b) Liable for all penalties assessed by NERC (through WECC, the CAISO or otherwise) for violations of the NERC Reliability Standards by the Generating Facility or Seller, as Generator Operator or other applicable category.

However, if Seller learns that NERC (through WECC or otherwise) is considering or intends to assess Seller with a penalty that Seller believes is attributable to SCE's actions or inactions as SC as described in the document entitled "NERC Reliability Standards - Responsibilities of the Generator Operator, Scheduling Coordinator, CAISO, and Reliability Coordinator" or other successor description or document on the CAISO website at the time of the potential assessment, Seller shall provide SCE with sufficient notice to allow SCE to take part in administrative processes, discussions or settlement negotiations with NERC, WECC or other entity arising from or related to the alleged violation or possible penalty. If the penalty is nonetheless assessed in spite of SCE's participation in the processes, discussions or settlement negotiations, or SCE waives its right to take part in the processes, discussion or settlement negotiations, SCE shall reimburse Seller for the penalty to the extent that:

- (c) It was solely caused by SCE's actions or inactions as SC as described in the document entitled "NERC Reliability Standards - Responsibilities of the Generator Operator, Scheduling Coordinator, CAISO, and Reliability Coordinator" or other successor description or document on the CAISO website at the time of the violation; and
- (d) Seller can establish to SCE's reasonable satisfaction that the penalty was actually assessed against Seller by NERC and paid by Seller to NERC.

3.27 Application of Prevailing Wage.

To the extent applicable, Seller shall comply with the prevailing wage requirements of Public Utilities Code Section 399.14, subdivision (h).

3.28 Interconnection Affiliate and Affiliate Manager Action.

Any obligation or action required of Seller under this Agreement shall, as applicable, also include an obligation that Seller cause the Interconnection Affiliate and/or the Affiliate Manager to fulfill such obligation or take such required action. *{SCE Comment: Language applicable to projects that utilize Shared Facilities.}*

*** End of ARTICLE THREE ***

The contents of this document are subject to restrictions on disclosure as set forth herein.

ARTICLE FOUR. SCE'S OBLIGATIONS**4.01 Obligation to Pay and Invoice.**

- (a) SCE shall provide information to Seller regarding CAISO Revenues, CAISO Costs, CAISO Sanctions, and SCE Penalties and shall pay Seller, all in accordance with Exhibit E.
- (b) Throughout the Delivery Term, SCE shall purchase Product generated by the Generating Facility and delivered at the Delivery Point in accordance with this Agreement, CAISO Tariff and Applicable Law, provided, subject to Section[s] 4.01(c) [and 4.01(d)] *{SCE Comment: For Sellers that are eligible for the Federal Production Tax Credit.}*, SCE has no obligation to purchase from Seller any Product that is not or cannot be delivered to the Delivery Point as a result of any circumstance, including:
 - (i) An outage of the Generating Facility;
 - (ii) A Force Majeure under Article Five; or
 - (iii) A reduction or curtailment of deliveries in accordance with Section 3.12(g), except as set forth in Section 4.01(c).
- (c) Subject to Section 4.01(e), SCE will be obligated to pay Seller for any CP in each Term Year, in accordance with Exhibit E.
- (d) SCE shall compensate Seller for lost Federal Production Tax Credits associated with the cumulative amount of Paid Curtailed Product in each Term Year, at the then applicable Federal Production Tax Credit rate times [TBD] in order to "gross-up" the lost Federal Production Tax Credit. Seller shall provide SCE with documentation that establishes to SCE's reasonable satisfaction that (i) Seller is entitled to receive Federal Production Tax Credits for the Paid Curtailed Product; and (ii) the amount of the compensation due under this Section 4.01(d). *{SCE Comment: For Sellers that are eligible for the Federal Production Tax Credit}*
- (e) SCE will not be obligated to pay Seller for any Product that Seller delivers in violation of Section 3.12(g), and Seller shall pay all CAISO Sanctions and CAISO Costs, and SCE shall retain all CAISO Revenues resulting from such violation of Section 3.12(g).

4.02 SCE's Check Meter.**(a) Providing Access to Seller.**

Before Commercial Operation, SCE shall provide to Seller remote access to the Check Meter through a website as specified by SCE. SCE may change the website and protocols from time to time. *{SCE Comment: Language only applicable to projects that do not utilize a shared transformer.}*

(b) Testing of Check Meter.

SCE may test and recalibrate the Check Meter(s) at least once every Term Year. The Check Meter(s) will be locked or sealed, and the lock or seal will be broken, only by a SCE representative. Seller has the right to be present whenever such lock or seal is broken. SCE shall replace the battery of the Check Meter(s) at least once every 36 months; *provided*, if a Check Meter battery fails, SCE shall promptly replace such battery.

(c) Use of Check Meter for Back-Up Purposes.

- (i) SCE shall routinely compare the Check Meter data to the CAISO Approved Meter data after adjusting the Check Meter for any compensation introduced by the CAISO into the CAISO Approved Meter.
- (ii) If the deviation between the CAISO Approved Meter data and the Check Meter data for any comparison is greater than 0.3%, SCE shall provide Notice to Seller of such deviation and the Parties will mutually arrange for a meter check or recertification of the Check Meter or CAISO Approved Meter, as applicable.
- (iii) SCE will bear its own costs for any meter check or recertification of the Check Meter.

{SCE Comment: Language only applicable to projects that do not utilize a shared transformer.}

- (i) SCE may routinely compare the Check Meter data to the CAISO Approved Meter data after adjusting the Check Meter(s) for any compensation introduced by the CAISO into the CAISO Approved Meter(s).
- (ii) If the deviation between the CAISO Approved Meter data and the Check Meter data for any comparison is greater than 0.3%, SCE shall have the option to provide Notice to Seller of such deviation and the Parties shall mutually arrange for a meter check or recertification of the Check Meter(s) or CAISO Approved Meter(s), as applicable.
- (iii) Seller will bear its own costs for any meter check or recertification of the Check Meter(s).

{SCE Comment: Language only applicable to projects that utilize a shared transformer.}

- (d) Testing procedures and standards for the Check Meter(s) will be the same as for a comparable SCE-owned revenue-grade meter. Seller has the right to have representatives present during all such tests.

4.03 Scheduling Coordinator.

Commencing on the Commercial Operation Date, SCE shall act as Seller's Scheduling Coordinator and carry out all duties as Scheduling Coordinator in accordance with CAISO Tariff protocols.

4.04 Termination of Scheduling Coordinator.

SCE shall submit a letter to the CAISO identifying the date on which SCE resigns as Seller's Scheduling Coordinator on the first to occur of the following:

- (a) Thirty (30) days before the end of the Term;
- (b) The date of any Notice from Seller of suspension of its performance pursuant to Section 6.02; or
- (c) The date of any early termination of this Agreement.

4.05 Exclusive Rights to Product and Cost Responsibility.

- (a) SCE has the exclusive right, at any time or from time to time, to sell, assign, convey, transfer, allocate, designate, award, report or otherwise provide any and all such Green Attributes, Capacity Attributes or Resource Adequacy Benefits conveyed by Seller to SCE during the Delivery Term to third parties; *provided*, no such action constitutes a transfer of, or a release of SCE of, its obligations under this Agreement.
- (b) Subject to Seller's obligations under this Agreement, including, without limitation, Sections 3.01, [3.02,] 3.08, 3.12, 3.19, [6.01(b)(xxiv)] and 10.03(b), SCE shall be responsible for any costs arising from or directly related to SCE's accounting for or otherwise claiming Green Attributes, Capacity Attributes and Resource Adequacy Benefits.

*** End of ARTICLE FOUR ***

ARTICLE FIVE. FORCE MAJEURE

5.01 No Default for Force Majeure.

Neither Party will be considered to be in default in the performance of any of its obligations set forth in this Agreement when and to the extent failure of performance is caused by Force Majeure; *provided*, a failure to make payments when due that accrued prior to the Force Majeure event shall not be excused.

5.02 Requirements Applicable to the Claiming Party.

If, because of Force Majeure, either Party is unable to perform its obligations under this Agreement, such Party (the "Claiming Party"), shall be excused from whatever performance is affected by the Force Majeure only to the extent so affected, *provided*,

- (a) The Claiming Party, no more than fourteen (14) days after the initial occurrence of the claimed Force Majeure, gives the other Party Notice describing the particulars of the occurrence;
- (b) The Claiming Party must provide timely evidence reasonably sufficient to establish that the occurrence constitutes Force Majeure as defined in this Agreement.
- (c) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure; and
- (d) as soon as Claiming Party is able to resume performance of its obligations under this Agreement, it shall do so and shall promptly give the other Party Notice of this resumption.

5.03 Commercial Operation Deadline Extension.

If the Commercial Operation Date does not occur on or before the Forecasted Commercial Operation Date as the result of a Force Majeure occurring before the Forecasted Commercial Operation Date and Seller is the Claiming Party, then the Forecasted Commercial Operation Date will, subject to Sections 1.03 and 5.04 and Seller's compliance with its obligations as the Claiming Party under Section 5.02, be extended on a day-for-day basis for the duration of the Force Majeure; *provided*, if (i) the Commercial Operation Date does not occur before the Commercial Operation Deadline and (ii) such Force Majeure extension coincides with and is beyond the Commercial Operation Deadline, then either Party may terminate this Agreement on Notice, which will be effective five (5) Business Days after such Notice is provided.

5.04 Termination.

Either Party may terminate this Agreement on Notice, which will be effective five (5) Business Days after such Notice is provided, if (a) an event of Force Majeure extends for more than three hundred sixty-five (365) consecutive days and materially and adversely

affects the operations of the Claiming Party, or (b) the Generating Facility is destroyed or rendered inoperable by a Force Majeure, and an independent, third-party engineer determines in writing that the Generating Facility cannot be repaired or replaced within six (6) months after the first day of such Force Majeure.

If either Party exercises its termination right pursuant to this Section 5.04, no Termination Payment will be due owing by either Party, and Seller will be entitled to a return of any Performance Assurance or Development Security.

*** End of ARTICLE FIVE ***

ARTICLE SIX. EVENTS OF DEFAULT; REMEDIES**6.01 Events of Default.**

An “Event of Default” means, with respect to a Party (a “Defaulting Party”), the occurrence of any of the following:

- (a) With respect to either Party:
 - (i) Any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated if the representation or warranty is continuing in nature, *provided*, if the misrepresentation or breach of warranty is capable of a cure, an Event of Default will be deemed to occur if the misrepresentation or breach of warranty is not remedied within five (5) Business Days after Notice from the non-breaching Party;
 - (1)
 - (ii) Such Party fails to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default specified below or to the extent excused by a Force Majeure) if such failure is not remedied within thirty (30) days after Notice of the failure, which Notice sets forth in reasonable detail the nature of the failure; *provided*, if the failure is not reasonably capable of being cured within the thirty (30) day cure period specified above, the Party will have such additional time (not exceeding an additional sixty (60) days) as is reasonably necessary to cure the failure, so long as the Party promptly commences and diligently pursues the cure;
 - (iii) Such Party fails to make when due any payment required under this Agreement and this failure is not cured within five (5) Business Days after Notice of the failure; or
 - (iv) A Party becomes Bankrupt;
- (b) With respect to Seller:
 - (i) Seller fails to satisfy the credit and collateral requirements set forth in Article 8, including failure to post or maintain any Development Security and/or Performance Assurance, and such failure is not cured within three (3) Business Days after Notice from SCE;
 - (ii) Commercial Operation does not occur on or before the Commercial Operation Deadline;
 - (iii) Except as permitted in Sections 10.04 and 10.05, Seller does not own or otherwise have control of the Generating Facility;

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- (iv) Seller does not have Site Control *[for Shared Facilities Control]* in accordance with Section 3.09 and Seller has not cured such failure within sixty (60) days after the occurrence of the event which results in the failure; *{SCE Comment: Bracketed language only applicable to projects that have Shared Facilities.}*
- (v) The sum of Qualified Amounts plus Lost Output in any consecutive six (6) month period is not at least ten percent (10%) of the Expected Annual Net Energy Production, and Seller fails to demonstrate to SCE's reasonable satisfaction, within ten (10) Business Days after Notice from SCE, a legitimate reason for the failure to meet the ten percent (10%) minimum;
- (vi) The Metered Amounts in any one hour interval, in kWh, exceed one hundred fifteen percent (115%) of the Contract Capacity, in kW, to this Agreement, (an "Event of Excess Deliveries"), without the prior written consent of SCE, and within ten (10) Business Days after Notice from SCE, Seller fails to demonstrate to SCE's satisfaction that Seller has identified the reason that the Event of Excess Deliveries occurred and that Seller has employed or is employing best efforts to ensure that no additional Events of Excess Deliveries will occur throughout the Delivery Term;
{SCE Comment: Baseload only.}
- (vii) Seller intentionally or knowingly Forecasts or delivers, or attempts to Forecast or deliver, at the Delivery Point for sale under this Agreement electric energy that was not in fact generated by the Generating Facility;
- (viii) Seller installs generating capacity in excess of the Contract Capacity and such excess generating capacity is not removed within five (5) Business Days after Notice from SCE; *{SCE Comment: Intermittent only}*
- (ix) Seller installs direct current electric energy generating capacity in excess of the Installed DC Rating and such excess direct current energy generating capacity is not removed within five (5) Business Days after Notice from SCE;
{SCE Comment: For Solar Photovoltaic.}
- (x) Seller removes from the Site equipment upon which the Contract Capacity has been based, except for the purposes of replacement, refurbishment, repair or maintenance, and the equipment is not returned within five (5) Business Days after Notice from SCE;
- (xi) The Generating Facility consists of an ERR type(s) different than that specified in Section 1.01(g);
- (xii) Except where there has been a change in Applicable Laws that would affect Seller's status as an ERR, and Seller has made commercially

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reasonable efforts in accordance with Section 10.02(b) to comply with the change in law, the Generating Facility fails to qualify as an ERR;

- (xiii) Except where there has been a change in Applicable Law that would affect the eligibility of electric energy to qualify as renewable energy for the purposes of the RPS Legislation and Seller has made commercially reasonable efforts in accordance with Section 10.02(c) to comply with the change in law, any electric energy from the Generating Facility and sold or to be sold to SCE hereunder fails to qualify as eligible renewable energy for purposes of the RPS Legislation;
- (xiv) A termination of, or cessation of service under, any agreement necessary for Seller:
 - (1) To interconnect the Generating Facility to the Transmission Provider's electric system;
 - (2) To transmit the electric energy on the Transmission Provider's electric system; or
 - (3) To comply with the CAISO Tariff;

provided, if SCE and Seller mutually agree that a termination of, or cessation of service under, any such agreement is not due to the fault of Seller, Seller shall have thirty (30) days from such termination or cessation to cure such default;

- (xv) Subject to Section 1.07, Seller fails to take any actions necessary to dedicate, convey or effectuate the use of any and all Green Attributes, Capacity Attributes and Resource Adequacy Benefits for SCE's sole benefit as specified in Section 3.01;
- (xvi) Subject to the terms of a Collateral Assignment Agreement, the occurrence and continuation of a default, event of default or other similar condition or event under one or more agreements or instruments relating to indebtedness for borrowed money, which results in the indebtedness becoming, or becoming capable at such time of being declared, immediately due and payable;
- (xvii) The stock, equity ownership interest in Seller or assets of Seller has been pledged or assigned as collateral or otherwise to any party other than Lender;
- (xviii) Seller transfers or assigns the Interconnection Queue Position or the interconnection agreement without the written consent of SCE;
- (xix) Seller consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations

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of Seller under this Agreement either by operation of law or pursuant to an agreement reasonably satisfactory to SCE;

- (xx) Seller fails to provide Hydro Certification in accordance with Section 3.25;
{SCE Comment: Hydro only.}
- (xxi) Seller fails to take all commercially reasonable actions, including any actions required in Seller's interconnection agreement, to expeditiously obtain Full Capacity Deliverability Status.
{SCE Comment: FCDS projects only.}
- (xxii) The CAISO Exemption is no longer in effect or Seller's continuing failure to comply with the CAISO Tariff due, in part, to the Shared Facilities; or
- (xxiii) WREGIS, the CEC or the CPUC have disqualified, disallowed, or rejected any Renewable Energy Credits due to the Shared Facilities' metering scheme failing to meet any requirement. Upon Notice of an Event of Default pursuant to this Section 6.01(b)(xxiv), Seller or Seller's Ultimate Parent may cure the Event of Default within thirty (30) days of such Notice by paying to SCE an amount equal to the Product Price multiplied by a factor of 1.35, multiplied by the quantity of Renewable Energy Credits (as expressed in MWhs) that have been disqualified, disallowed, or rejected by WREGIS, CEC, or the CPUC.

{SCE Comment: Language only applicable to projects that utilize a shared transformer.}
- (xxiv) Except as provided in Section 2.01(b), 3.05(a) or Section 10.18, Seller assigns or transfers its rights, obligations, interests, property or title under or in the interconnection agreement, in any Shared Facilities or in any Shared Facilities Agreement, without the consent of SCE;
- (xxv) Except as provided in Section 2.01(b), 3.05(a) or Section 10.18, Seller's rights or obligations under the interconnection agreement or any Shared Facilities Agreement are amended or otherwise revised in a manner that would have an adverse effect on Seller's ability to perform hereunder, without the consent of SCE; or
- (xxvi) Seller fails to maintain the required interconnection capacity pursuant to Section 3.05(a).

{SCE Comment: Language applicable to projects that utilize Shared Facilities.}

6.02 Early Termination.

The contents of this document are subject to restrictions on disclosure as set forth herein.

If an Event of Default shall have occurred, the Party taking the default (the “Non-Defaulting Party”) has the right:

- (a) To designate by Notice, which will be effective five (5) Business Days after the Notice is given, a day, no later than twenty (20) calendar days after the Notice is effective, for the early termination of this Agreement (an “Early Termination Date”); *provided*, a Non-Defaulting Party’s right to terminate this Agreement pursuant to this Section 6.02(a) may only be exercised within one hundred and eighty (180) days from the date that the default giving rise to the applicable Event of Default is no longer continuing, or, if no cure period is provided for, from the date the Non-Defaulting Party becomes aware of the Event of Default; and
- (b) To pursue all remedies available at law or in equity against the Defaulting Party (including monetary damages), except to the extent that such remedies are limited by the terms of this Agreement.

Upon the effective designation of an Early Termination Date, the Non-Defaulting Party will have the right to immediately suspend performance under this Agreement, including performance under Section 3.03 but excluding the obligation to post and maintain Development Security and Performance Assurance in accordance with Article Eight.

{SCE Comment: Language only applicable to projects that do not utilize a shared transformer.}

- (a) If an Event of Default shall have occurred, the Party taking the default (the “Non-Defaulting Party”) has the right:

- (i) To designate by Notice, which will be effective five (5) Business Days after the Notice is given, a day, no later than twenty (20) calendar days after the Notice is effective, for the early termination of this Agreement (an “Early Termination Date”). With the exception of Section 6.02(c), a Non-Defaulting Party’s right to terminate this Agreement pursuant to this Section 6.02(a)(i) may only be exercised within one hundred and eighty (180) days from the date that the default giving rise to the applicable Event of Default is no longer continuing, or, if no cure period is provided for, from the date the Non-Defaulting Party becomes aware of the Event of Default; and
- (ii) To pursue all remedies available at law or in equity against the Defaulting Party (including monetary damages), except to the extent that such remedies are limited by the terms of this Agreement.

- (b) Upon the effective designation of an Early Termination Date, the Non-Defaulting Party will have the right to immediately suspend performance under this Agreement, including performance under Section 3.03 but excluding the obligation to post and maintain Development Security and Performance Assurance in accordance with Article Eight.

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (c) In the case of an Event of Default pursuant to Section 6.01(b)(xxiii), SCE shall have the right to suspend performance under the Agreement without having to designate an Early Termination Date. SCE may continue to suspend performance under the Agreement so long as the Event of Default is continuing; provided that such suspension period shall not last longer than three hundred and sixty-five (365) days commencing upon the date that the CAISO Exemption was no longer in effect. During any such suspension period, Seller shall have the period outlined by the CAISO in order to demonstrate compliance with the CAISO Tariff (the "CAISO Exemption Cure Period"). If Seller is unable to demonstrate compliance with the CAISO Exemption Cure Period or the three hundred and sixty-five day suspension period, whichever date is earlier, SCE shall have the right to designate an Early Termination Date by Notice, which will be effective five (5) Business Days after the Notice is given.
- {SCE Comment: Language only applicable to projects that utilize a shared transformer.}*

6.03 Termination Payment.

As soon as practicable after an Early Termination Date is declared, the Non-Defaulting Party shall provide Notice to the Defaulting Party of the Termination Payment.

The Notice must include a written statement setting forth, in reasonable detail, the calculation of such Termination Payment including the Forward Settlement Amount, together with appropriate supporting documentation.

If the Termination Payment is positive, the Defaulting Party shall pay such amount to the Non-Defaulting Party within ten (10) Business Days after the Notice is provided. If the Termination Payment is negative (i.e., the Non-Defaulting Party owes the Defaulting Party more than the Defaulting Party owes the Non-Defaulting Party), then the Non-Defaulting Party shall pay such amount to the Defaulting Party within thirty (30) days after the Notice is provided.

The Parties shall negotiate in good faith to resolve any disputes regarding the calculation of the Termination Payment. Any Disputes which the Parties are unable to resolve through negotiation may be submitted for resolution through mediation and arbitration as provided in Article Twelve.

*** End of ARTICLE SIX ***

ARTICLE SEVEN. LIMITATIONS OF LIABILITIES

EXCEPT AS SET FORTH HEREIN, THERE ARE NO WARRANTIES BY EITHER PARTY UNDER THIS AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES WILL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY WILL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED, UNLESS THE PROVISION IN QUESTION PROVIDES THAT THE EXPRESS REMEDIES ARE IN ADDITION TO OTHER REMEDIES THAT MAY BE AVAILABLE.

SUBJECT TO SECTION 12.04, IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY WILL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES WILL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

DIRECT DAMAGES INCLUDE THE VALUE OF ANY [FEDERAL INVESTMENT TAX CREDIT][FEDERAL PRODUCTION TAX CREDIT], DETERMINED ON AN AFTER-TAX BASIS, THAT ARE LOST BY SELLER DUE TO AN EVENT OF DEFAULT BY SCE WHERE SELLER PROVIDED NOTICE OF EARLY TERMINATION TO SCE IN ACCORDANCE WITH SECTION 6.02(a) AND SELLER HAS NOT BEEN ABLE TO MITIGATE THAT LOSS AFTER USE OF REASONABLE EFFORTS.

{SCE Comment: For Generating Facilities that qualify for Federal Production Tax Credit or Federal Investment Tax Credit, as applicable.}

UNLESS EXPRESSLY PROVIDED IN THIS AGREEMENT, INCLUDING WITHOUT LIMITATION THE PROVISIONS OF SECTION 10.03 (INDEMNITY), NEITHER PARTY WILL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE.

IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE.

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

NOTHING IN THIS ARTICLE PREVENTS, OR IS INTENDED TO PREVENT SCE FROM PROCEEDING AGAINST OR EXERCISING ITS RIGHTS WITH RESPECT TO ANY DEVELOPMENT SECURITY, OR PERFORMANCE ASSURANCE.

*** End of ARTICLE SEVEN ***

ARTICLE EIGHT. CREDIT AND COLLATERAL REQUIREMENTS**8.01 Development Security.****(a) Amount.**

Seller shall post and thereafter maintain an amount equal to *[Ninety dollars (\$90)] {SCE Comment: For Baseload} [Sixty dollars (\$60)] {SCE Comment: For Intermittent}* for each kilowatt of *[Installed DC Rating] {SCE Comment: For Solar Photovoltaic} [Contract Capacity] {SCE Comment: For all technologies except Solar Photovoltaic}* ("Development Security").

(b) Posting Requirements.

Seller shall post the Development Security in accordance with the following terms and conditions:

- (i) Seller shall post Development Security no later than five (5) Business Days after the Effective Date;
- (ii) The Development Security must be in the form of cash or a Letter of Credit; and
- (iii) The Development Security and any interest accrued thereon in accordance with Section 8.03(a) shall be held by SCE as security for Seller achieving Commercial Operation on or before the Commercial Operation Deadline and demonstrating the *[Installed DC Rating] {SCE Comment: For Solar Photovoltaic} [Contract Capacity] {SCE Comment: For all technologies except Solar Photovoltaic}* in accordance with the terms of this Agreement.

(c) Return of Development Security.

If no Event of Default with respect to Seller has occurred and is continuing, and no Early Termination Date has occurred or been designated as the result of an Event of Default with respect to Seller, then:

- (i) As soon as reasonably practicable after the Commercial Operation Date, SCE shall return the full Development Security to Seller, including any interest accrued thereon pursuant to Section 8.03(a), less the amount of Development Security retained pursuant to section 3.06(f), if any.
- (ii) As soon as reasonably practicable after the termination of this Agreement by either Party pursuant to Section 2.03(a)(ii) or 5.04, SCE shall return to Seller the full Development Security; provided, a termination under

The contents of this document are subject to restrictions on disclosure as set forth herein.

Section 5.04 only entitles Seller to a return of the Development Security if the termination is based on a Force Majeure that prevents the Commercial Operation Date from occurring on or before the Commercial Operation Deadline.

Seller may, with SCE's consent, authorize SCE to retain cash or Letter(s) of Credit initially posted as Development Security as Performance Assurance posted under Section 8.02.

8.02 Performance Assurance.

(a) Amount.

At all times during the Delivery Term, Seller shall post and thereafter maintain Performance Assurance in the amount of *[Dollar Amount text]* dollars (\$[Number]). *{SCE Comment: Performance Assurance will be calculated as five percent (5%) of the total projected revenue over the full Term.}*

(b) Posting Requirements.

Seller shall post the Performance Assurance in accordance with the following terms and conditions:

- (i) Seller shall post all of the Performance Assurance on or before the Commercial Operation Date and such Performance Assurance shall be maintained at all times during the Term and thereafter until such time as Seller has satisfied all monetary obligations which survive any termination of this Agreement, not to exceed one year following the end of the Term;
- (ii) The Performance Assurance must be in the form of cash or a Letter of Credit; and
- (iii) The Performance Assurance and any interest accrued thereon in accordance with Section 8.03(a) shall be held by SCE as security for Seller's performance of its obligations under this Agreement.

(c) Return of Performance Assurance

SCE shall return to Seller the unused portion of the Performance Assurance, including any interest accrued thereon pursuant to Section 8.03(a), as soon as reasonably practicable after the Delivery Term has ended and Seller has satisfied all monetary obligations which survive termination of this Agreement.

8.03 Administration of Project Security

(a) Cash.

- (i) SCE shall calculate and pay an Interest Payment to Seller on any Project Security posted in cash, concurrently with the return of such collateral to Seller in accordance with the terms of this Agreement.
 - (ii) On or after the occurrence of an Event of Default with respect to the Seller or an Early Termination Date as a result of an Event of Default with respect to the Seller, SCE shall retain any Interest Payment as additional Project Security until the obligations of the Seller under this Agreement have been satisfied in the case of an Early Termination Date or for so long as such Event of Default is continuing in the case of an Event of Default; provided that, any Interest Payment that is held by SCE as an additional Project Security amount shall not accrue interest in accordance with Section 8.03(a)(i)
 - (iii) Notwithstanding the provisions of Applicable Laws, SCE shall have the right to sell, pledge, rehypothecate, assign, invest, use, commingle or otherwise use in its business any cash that it holds as Project Security hereunder, free from any claim or right of any nature whatsoever of Seller, including any equity or right of redemption by Seller.
- (b) Letters of Credit.
 - (i) Each Letter of Credit must be maintained for the benefit of SCE;
 - (ii) Seller shall:
 - (1) Renew or cause the renewal of each outstanding Letter of Credit no less than sixty (60) days before its expiration;
 - (2) If the issuer of an outstanding Letter of Credit has indicated its intent not to renew such Letter of Credit, provide alternative Project Security at least twenty (20) Business Days before its expiration; and
 - (3) If the issuer of a Letter of Credit fails to honor SCE's properly documented request to draw on an outstanding Letter of Credit, provide alternative Project Security within three (3) Business Days after such refusal.
 - (iii) Upon the occurrence of a Letter of Credit Default, Seller shall provide to SCE alternative Project Security on or before the third (3rd) Business Day after the occurrence thereof (or the fifth (5th) Business Day after the occurrence thereof if only clause (a) under the definition of Letter of Credit Default applies).
 - (iv) Upon, or at any time after, the occurrence and continuation of an Event of Default by Seller, SCE may draw on the entire undrawn portion of any outstanding Letter of Credit upon submission to the issuer of such Letter

of Credit of one or more certificates specifying that such Event of Default has occurred and is continuing. In addition, SCE will have the right to draw on the Letter of Credit for any of the reasons set forth in such Letter of Credit (or its accompanying draw certificate).

- (v) Cash proceeds received by SCE from drawing upon the Letter of Credit shall be deemed Project Security for Seller's obligations to SCE, and SCE shall have the rights and remedies set forth in this Agreement with respect to such cash proceeds.
- (vi) In all cases, all costs associated with a Letter of Credit, including the costs and expenses of establishing, renewing, replenishing, substituting, canceling, and changing the amount of a Letter of Credit shall be borne by Seller.

(c) Liability Following Application of Collateral.

Notwithstanding SCE's use of cash collateral or receipt of cash proceeds of a drawing under the Letter of Credit, Seller shall remain liable for:

- (i) Any failure to provide or maintain the required Project Security if, following such application, the remaining Project Security is less than the amount required hereunder (including failure to replenish cash collateral or a Letter of Credit to the full Project Security amount in the event that SCE uses the cash collateral or draws against the Letter of Credit for any reason other than to satisfy a Termination Payment); or
- (ii) Any amounts owing to SCE and remaining unpaid after the application of the amounts drawn by SCE.

8.04 Grant of Security Interest.

To secure its performance of its obligations under this Agreement, and until released as provided herein, Seller hereby grants to SCE a present and continuing first-priority security interest ("Security Interest") in, and lien on (and right to setoff against), and assignment of the Project Security and any and all proceeds resulting therefrom or from the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of SCE, and Seller agrees to take such action as SCE reasonably requires in order to perfect SCE's Security Interest in, and lien on (and right to setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.

8.05 Remedies.

- (a) Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default or an Early Termination Date, SCE, if it is the Non-Defaulting Party, may do any one or more of the following:
 - (i) Exercise any of its rights and remedies with respect to the Project Security, including any such rights and remedies under law then in effect;
 - (ii) Exercise its rights of setoff against any and all property of Seller in the possession of SCE or its agent;
 - (iii) Draw on any outstanding Letter of Credit issued for its benefit; and
 - (iv) Liquidate any Project Security then held by or for the benefit of SCE free from any claim or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller.
- (b) SCE shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Seller's obligations under this Agreement, subject to SCE's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.
- (c) SCE shall be under no obligation to prioritize the order with respect to which it exercises any one or more rights and remedies available hereunder. Seller shall in all events remain liable to SCE for any amount payable by Seller in respect of any of its obligations remaining unpaid after any such liquidation, application and set off.

8.06 Credit and Collateral Covenants.

- (a) Seller shall, from time to time as requested by SCE, execute, acknowledge, record, register, deliver and file all such notices, statements, instruments and other documents as may be necessary or advisable to render fully valid and enforceable under all Applicable Laws the rights, liens and priorities of SCE with respect to the Security Interest provided for herein and therein.
- (b) Seller may not cause or permit the stock, equity ownership interest in Seller or assets of Seller to be pledged or assigned as collateral or otherwise to any party other than Lender as set forth under the Collateral Assignment Agreement.
- (c) Seller may not hold any material assets, become liable for any material obligations or engage in any material business activities other than the development, construction and Operation of the Generating Facility *[and the ownership and/or management of Interconnection Affiliate with respect to the Shared Facilities as contemplated under Section 3.05]. {SCE Comment: Bracketed language only applicable to projects that utilize Shared Facilities.}*
- (d) Seller may not own, form or acquire, or otherwise conduct any of its activities through, any direct or indirect subsidiary *[other than, with respect to the Shared Facilities as contemplated under Section 3.05, Interconnection Affiliate]. {SCE*

Comment: Bracketed language only applicable to projects that utilize Shared Facilities.}

- (e) During any period during which Seller is a Defaulting Party, Seller may not:
 - (i) Declare or pay any dividend, or make any other distribution or payment, on account of any equity interest in Seller; or
 - (ii) Otherwise make any distribution or payment to any Affiliate of Seller.

8.07 California Commercial Code Waiver.

This Agreement sets forth the entirety of the agreement of the Parties regarding credit, collateral, financial assurances and adequate assurances. Except as expressly set forth in this Agreement, including those provisions set forth in Article Six and Article Eight, neither Party:

- (a) Has or will have any obligation to post margin, provide letters of credit, pay deposits, make any other prepayments or provide any other financial assurances, in any form whatsoever; or
- (b) Will have reasonable grounds for insecurity with respect to the creditworthiness of a Party that is complying with the relevant provisions of Article Six and Eight;

and all implied rights relating to financial assurances arising from Section 2609 of the California Commercial Code or case law applying similar doctrines, are hereby waived.

8.08 Financial Information.

- (a) If requested by one Party, the other Party shall deliver the following financial statements, which in all cases must be for the most recent accounting period and prepared in accordance with GAAP:
 - (i) Within one hundred twenty (120) days following the end of each fiscal year, a copy of its annual report containing audited consolidated financial statements (income statement, balance sheet, statement of cash flows and statement of retained earnings and all accompanying notes) for such fiscal year, setting forth in each case in comparative form the figures for the previous year; and
 - (ii) Within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year, a copy of its quarterly report containing consolidated financial statements (income statement, balance sheet, statement of cash flows and statement of retained earnings and all accompanying notes) for such fiscal quarter and the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures for the previous year.
- (b) In each case, the financial statements specified in Sections 8.08(a)(i) and 8.08(a)(ii) above must be:

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (i) Certified in accordance with all Applicable Laws and regulations, including all applicable SEC rules and regulations, if such Party is an SEC reporting company; or
 - (ii) Certified by a Responsible Officer as being fairly stated in all material respects (subject to normal year end audit adjustments) if such Party is not an SEC reporting company;
- (c) For purposes of the requirement set forth in Section 8.08(a):
 - (i) If a Party's financial statements are publicly available electronically on the website of that Party or the SEC, then the Party shall be deemed to have met the requirements of Section 8.08(a); and
 - (ii) Should any such financial statements not be available on a timely basis due to a delay in preparation or certification, that delay will not be an Event of Default so long as the producing Party diligently pursues the preparation, certification and delivery of the statements.

*** End of ARTICLE EIGHT ***

ARTICLE NINE. GOVERNMENTAL CHARGES

9.01 Cooperation to Minimize Tax Liabilities.

Each Party shall use reasonable efforts to implement the provisions of and to administer this Agreement in accordance with the intent of the Parties to minimize all taxes, so long as neither Party is materially adversely affected by such efforts.

9.02 Governmental Charges.

Seller shall pay or cause to be paid all taxes imposed by any Governmental Authority (“Governmental Charges”) on or with respect to the Metered Amounts (and any contract associated with the Metered Amounts) arising before the Delivery Point, including ad valorem taxes and other taxes attributable to the Generating Facility, land, land rights or interests in land for the Generating Facility.

SCE shall pay or cause to be paid all Governmental Charges on or with respect to the Metered Amounts at and from the Delivery Point. If Seller is required by law or regulation to remit or pay Governmental Charges which are SCE’s responsibility hereunder, SCE shall promptly reimburse Seller for such Governmental Charges.

If SCE is required by law or regulation to remit or pay Governmental Charges which are Seller’s responsibility hereunder, SCE may deduct such amounts from monthly Product Payments to Seller.

If SCE elects not to deduct such amounts from Seller’s monthly Product Payments, Seller shall promptly reimburse SCE for such amounts upon SCE’s Payment Invoice request. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which that Party is exempt under the law.

*** End of ARTICLE NINE ***

ARTICLE TEN. MISCELLANEOUS**10.01 Representations and Warranties.**

On the Effective Date, each Party represents and warrants to the other Party that:

- (a) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- (b) Except for CPUC Approval in the case of SCE, and all Permits in the case of Seller, it has or will timely acquire all regulatory authorizations necessary for it to legally perform its obligations under this Agreement;
- (c) The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;
- (d) This Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms, subject to any Equitable Defenses;
- (e) There is not pending, or to its knowledge, threatened against it or, in the case of Seller, any of its Affiliates, any legal proceedings that could materially adversely affect its ability to perform under this Agreement;
- (f) No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement;
- (g) It is acting for its own account and its decision to enter into this Agreement is based upon its own judgment, not in reliance upon the advice or recommendations of the other Party and it is capable of assessing the merits of and understanding, and understands and accepts the terms, conditions and risks of this Agreement; and
- (h) It has not relied upon any promises, representations, statements or information of any kind whatsoever that are not contained in this Agreement in deciding to enter into this Agreement.

10.02 Additional Seller Representations, Warranties and Covenants.

- (a) Seller hereby covenants to SCE that throughout the Delivery Term:
 - (i) Seller shall own and Operate the Generating Facility;
 - (ii) Seller shall deliver to SCE the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person;

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (iii) Seller shall hold the rights to all Green Attributes, Capacity Attributes and Resource Adequacy Benefits, which Seller has conveyed and has committed to convey to SCE hereunder;
 - (iv) Seller shall obtain, maintain and remain in compliance with all Permits, interconnection agreements and transmission rights necessary to Operate the Generating Facility and to deliver electric energy from the Generating Facility to the Delivery Point;
 - (v) Subject to Section 1.07, Seller shall take all actions necessary for the Project to qualify and be certified by the CEC as an ERR; and
 - (vi) Subject to Section 1.07, Seller shall take all actions necessary for the Product delivered to SCE to qualify under the requirements of the California Renewables Portfolio Standard.
- (b) Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that:
- (i) The Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource ("ERR") as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and
 - (ii) The Project's output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard.
- To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.
- (c) Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the Renewable Energy Credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.
- (d) The term "commercially reasonable efforts" as used in Section 10.02(b) and Section 10.02(c) means efforts consistent with and subject to Section 1.07. *[The term "change in law" as used in Section 10.02(b) and Section 10.02(c) does not include an invalidation, rescission or change in terms of the CAISO Exemption nor any disapproval, disallowance, or other change in policy by WREGIS, the CEC or the CPUC with regards to the RECs as a result of the Shared Facilities' metering*

scheme. {SCE Comment: Bracketed language only applies to projects that utilize Shared Facilities.}

- (e) Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under the contract.
- (f) Seller hereby represents and warrants that, as of the Effective Date, it has no knowledge of any plans by SCE or another Transmission Provider to seek to construct a transmission or distribution line through or on the Site.
- (g) Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term: (i) the Seller shall comply with the Green-e® Energy eligibility criteria and requirements, as updated from time to time by Green-e® Energy; and (ii) the Generating Facility and any Metered Amounts shall qualify as Green-e® Energy eligible and are Green-e® Energy certified.
{SCE Comment: Only applicable to GTSR Green Rate Projects only.}

10.03 Indemnity.

(a) SCE's Indemnification Obligations.

In addition to any other indemnification obligations SCE may have elsewhere in this Agreement, which are hereby incorporated in this Section 10.03(a), SCE releases, and shall indemnify, defend and hold harmless Seller, and Seller's directors, officers, employees, agents, assigns, and successors in interest, from and against any and all loss, liability, damage, claim, cost, charge, demand, fine, penalty or expense of any kind or nature (including any direct, damage, claim, cost, charge, demand, or expense, and attorneys' fees (including cost of in-house counsel) and other costs of litigation, arbitration and mediation, and in the case of third-party claims only, indirect and consequential loss or damage of such third-party), arising out of or in connection with:

- (i) any breach made by SCE of its representations and warranties in Sections 10.01 and 10.02;
- (ii) The failure to pay any Governmental Charges for which SCE is responsible under Article Nine; and
- (iii) so long as Seller has fully complied with the Generator Operator Obligations and Generator Owner Obligations, any NERC Standards Non-Compliance Penalties which are solely due to SCE's negligence in performing its role as Seller's Scheduling Coordinator throughout the Delivery Term.

This indemnity applies notwithstanding Seller's active or passive negligence. However, Seller will not be indemnified hereunder for its loss, liability, damage,

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claim, cost, charge, demand or expense to the extent caused by its gross negligence or willful misconduct.

(b) Seller's Indemnification Obligations.

In addition to any other indemnification obligations Seller may have elsewhere in this Agreement, which are hereby incorporated in this Section 10.03(b), Seller releases, and shall indemnify, defend and hold harmless SCE, and SCE's directors, officers, employees, agents, assigns, and successors in interest, from and against any and all loss, liability, damage, claim, cost, charge, demand, penalty, fine or expense of any kind or nature (including any direct, damage, claim, cost, charge, demand, or expense, and attorneys' fees (including cost of in-house counsel) and other costs of litigation, arbitration or mediation, and in the case of third-party claims only, including claims arising from a breach of Section 10.02(b), indirect or consequential loss or damage of such third-party), arising out of or in connection with:

- (i) any breach made by Seller of its representations and warranties in Sections 10.01 and 10.02;
- (ii) Seller's failure to fulfill its obligations regarding Resource Adequacy Benefits as set forth in Section[s] 3.01 [and 3.02];
- (iii) NERC Standards Non-Compliance Penalties or an attempt by any Governmental Authority, person or entity to assess such NERC Standards Non-Compliance Penalties against SCE, except to the extent solely due to SCE's negligence in performing its role as Seller's Scheduling Coordinator throughout the Delivery Term;
- (iv) injury or death to persons, including SCE employees, and physical damage to property, including SCE property, where the damage arises out of, is related to, or is in connection with, Seller's construction, ownership or Operation of the Generating Facility, or obligations or performance under this Agreement;
- (v) injury or death to any person or damage to any property, including the personnel or property of SCE, to the extent that SCE would have been protected had Seller complied with all of the provisions of Section 10.11; *provided*, the inclusion of this Section 10.03(b)(v) is not intended to create any express or implied right in Seller to elect not to provide the insurance required under Section 10.11;
- (vi) any breach by Seller of the covenants set forth in Section 2.04(b);
- (vii) the disqualification by WREGIS or any Governmental Authority of any Renewable Energy Credits transferred to SCE, or the failure to transfer any Renewable Energy Credits to Buyer within four (4) months after the generation of the associated Metered Amounts;

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- (viii) any violation of Applicable Laws or the CAISO Tariff arising out of or in connection with Seller's performance of, or failure to perform this Agreement, including strict liability;
- (ix) any (i) release of a Hazardous Material by Seller, its EPC Contractor, or any of Seller's or its EPC Contractor's subcontractors, (ii) enforcement or compliance proceeding relating to or in connection with any alleged, threatened or actual violation of any environmental law by Seller or its EPC Contractor or any of Seller's or its EPC Contractor's subcontractors, or (iii) action reasonably necessary to abate, investigate, remediate or prevent a violation or threatened violation of any environmental law by Seller or its EPC Contractor or any of Seller's or its EPC Contractor's subcontractors;
- (x) the failure to pay any Governmental Charges for which Seller is responsible under Article Nine;
- (xi) any monetary penalties or fines assessed against SCE by the CPUC or the CAISO or any other entity having jurisdiction, resulting from Seller's willful or negligent failure to provide SCE with the full amount of Resource Adequacy Benefits associated with the Contract Capacity for the Generating Facility (in accordance with then current resource adequacy counting rules). The Parties shall use commercially reasonable efforts to minimize such fines and penalties; provided, in no event will SCE be required to use or change its utilization of its owned or controlled assets or market positions to minimize the fines and penalties. *[;or*
- (xii) *any penalties, sanctions or fines imposed by CAISO as a result of the inaccuracy or recalibration of the CAISO Approved Meter(s).]*
{SCE Comment: Bracketed language only applicable to projects that utilize a shared transformer.}

This indemnity applies notwithstanding SCE's active or passive negligence. However, SCE will not be indemnified under Section 10.03(b)(i) through Section 10.03(b)(iv) for its loss, liability, damage, claim, cost, charge, demand or expense to the extent caused by its gross negligence or willful misconduct.

(c) Indemnification Claims.

All claims for indemnification by a Party entitled to be indemnified under this Agreement (an "Indemnified Party") by the other Party (the "Indemnitor") will be asserted and resolved as follows:

- (i) If a claim or demand for which an Indemnified Party may claim indemnity is asserted against or sought to be collected from an Indemnified Party by a third party, the Indemnified Party shall as promptly as practicable give Notice to the Indemnitor; *provided*, failure to provide this Notice will

relieve Indemnitor only to the extent that the failure actually prejudices Indemnitor.

- (ii) Indemnitor will have the right to control the defense and settlement of any claims in a manner not adverse to Indemnified Party but cannot admit any liability or enter into any settlement without Indemnified Party's approval.
- (iii) Indemnified Party may employ counsel at its own expense with respect to any claims or demands asserted or sought to be collected against it; *provided*, if counsel is employed due to a conflict of interest or because Indemnitor does not assume control of the defense, Indemnitor will bear the expense of this counsel.

(d) Survival of Indemnification Rights and Obligations.

All indemnity rights and obligations survive the termination of this Agreement for a period of four (4) years.

10.04 Assignment.

- (a) Except as provided in Section 10.05, neither Party can assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld.
- (b) Any tax equity financing or direct or indirect change of control of Seller (whether voluntary or by operation of law) will be deemed an assignment and will require the prior written consent of SCE, which consent shall not be unreasonably withheld.
- (c) Any requests for consent to assignment shall be provided at least thirty (30) days in advance of the assignment date.

10.05 Consent to Collateral Assignment.

In connection with any debt financing or refinancing of the Generating Facility by Seller that contemplates an assignment of this Agreement as collateral, SCE shall in good faith work with Seller and Lender to agree upon a consent to a collateral assignment of this Agreement ("Collateral Assignment Agreement") substantially in the form of Exhibit M. Requests for a Collateral Assignment Agreement must be received by SCE at least thirty (30) days in advance of the anticipated closing date for the transaction in question. Seller shall also be responsible for SCE's reasonable costs associated with the preparation, review, execution and delivery of documents in connection with any such assignment, including attorneys' fees.

10.06 Abandonment.

Seller may not relinquish its possession and control of the Generating Facility without the prior written consent of SCE except under circumstances provided for in Sections 10.04 and 10.05.

For purposes of this Section 10.06, Seller will have been deemed to relinquish possession of the Generating Facility if Seller has ceased all activities related to Operation of the Generating Facility for a consecutive thirty (30) day period and such cessation is not a result of Force Majeure.

10.07 Governing Law.

THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. TO THE EXTENT ENFORCEABLE AT SUCH TIME, EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

10.08 Notices.

All notices, requests, invoices, statements or payments must be made as specified in Exhibit C.

Notices (other than Forecasts, scheduling requests and curtailment (or equivalent) instructions) must, unless otherwise specified herein, be in writing and may be delivered by hand delivery, first class United States mail, overnight courier service, e-mail or facsimile. Notices of curtailment (or equivalent orders) may be oral or written and must be made in accordance with accepted industry practices for such notices.

Notice provided in accordance with this Section 10.08 will be deemed given as follows:

- (a) Notice by e-mail, facsimile or hand delivery will be deemed given at the close of business on the day actually received, if received during business hours on a Business Day, and otherwise will be deemed given at the close of business on the next Business Day;
- (b) Notice by overnight United States mail or courier service will be deemed given on the next Business Day after such Notice was sent out;
- (c) Notice by first class United States mail will be deemed given two (2) Business Days after the postmarked date;
- (d) Notice of curtailment will be deemed given on the date and time made by SCE and will be effective immediately.

Notices will be effective on the date deemed given, unless a different date for the Notice to go into effect is stated in another section of this Agreement.

A Party may change its designated representatives, addresses and other contact information by providing Notice of same in accordance herewith.

All Notices, requests, invoices, statements or payments related to this Agreement or the Generating Facility must reference the RAP ID and clearly identify the fact, circumstance, request, issue, dispute or matter to which such Notice relates.

10.09 General.

- (a) This Agreement constitutes the entire agreement between the Parties relating to its subject matter.
- (b) This Agreement will be considered for all purposes as prepared through the joint efforts of the Parties and may not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.
- (c) This Agreement can only be amended by a writing signed by both Parties.
- (d) This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement and except as otherwise provided in Section 10.03 with respect to the rights of indemnitees).
- (e) The failure of either Party to insist in any one instance upon strict performance of any the provisions of this Agreement or to take advantage of any of its rights hereunder shall not be construed as a waiver of any such provisions or the relinquishments of such rights for the future but the same shall continue and remain in full force and effect. Waiver by a Party of any default by the other Party may not be construed as a waiver of any other default.
- (f) The term “including” when used in this Agreement is by way of example only and may not be considered in any way to be in limitation.
- (g) The word “or” when used in this Agreement includes the meaning “and/or” unless the context unambiguously dictates otherwise.
- (h) The headings used in this Agreement are for convenience and reference purposes only. Words having well-known technical or industry meanings have these meanings unless otherwise specifically defined in this Agreement.
- (i) Where days are not specifically designated as Business Days, they will be considered as calendar days.
- (j) This Agreement is binding on each Party’s successors and permitted assigns.
- (k) No provision of this Agreement is intended to contradict or supersede any agreement, the CAISO Tariff, SCE’s tariff or Applicable Laws covering transmission, distribution, metering, scheduling or interconnection, including the interconnection agreement. In the event of an apparent contradiction between this Agreement and any such agreement, the CAISO tariff, SCE’s tariff or Applicable Laws, such agreement, the CAISO Tariff, SCE’s tariff or Applicable Law controls. Each Party agrees that it will not assert or defend itself, on the basis that any applicable tariff is inconsistent with this Agreement.

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- (l) Whenever this Agreement specifically refers to any law, tariff, government department or agency, regional reliability council, Transmission Provider, or credit Rating Agency, the Parties hereby agree that the reference also refers to any successor to such law, tariff or organization.
- (m) SCE has assigned a RAP ID number to this Agreement for tracking purposes only.
- (n) The Parties acknowledge and agree that this Agreement and the transactions contemplated by this Agreement constitute a “forward contract” within the meaning of the Bankruptcy Code and that SCE and Seller are each “forward contract merchants” within the meaning of the Bankruptcy Code.
- (o) This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile transmission, Portable Document Format (i.e., PDF) or by other electronic means constitutes effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes.
- (p) Each Party shall act in good faith in its performance under this Agreement.
- (q) All dollar amounts set forth in this Agreement are in U.S. dollars.
- (r) All references to time shall be in PPT unless stated otherwise.

10.10 Confidentiality.

(a) Terms and Conditions of this Agreement.

Neither Party shall disclose Confidential Information to a third party, other than:

- (i) To such Party's, or its upstream parents' (which, in the case of SCE, is Edison International), employees, Lenders, counsel, accountants, advisors or investors, in each case who have a need to know such information and have agreed to keep such terms confidential;
- (ii) To potential Lenders with the consent of SCE, which consent will not be unreasonably withheld;
- (iii) By either Party (the “Disclosing Party”), to participants of SCE's Procurement Review Group, as defined in CPUC Decision 02-08-071, subject to any confidentiality agreements or laws, regulations or regulatory decisions concerning confidentiality which are applicable to SCE's Procurement Review Group; *provided*, Seller may only disclose to such entities Confidential Information that is information on the bid and negotiation process of SCE's RPS solicitation; *provided further*, with respect to non-CPUC PRG participants, neither Party may disclose Confidential Information to such third parties unless and until a written

The contents of this document are subject to restrictions on disclosure as set forth herein.

confidentiality or non-disclosure agreement is fully executed between the Disclosing Party and such third-party disclosee. Seller shall provide Notice to SCE of any disclosure by Seller of Confidential Information pursuant to this Section 10.10(a)(iii) of this Agreement.

- (iv) By either Party, to the CPUC under seal for purposes of review subject to such Disclosing Party making reasonable efforts to obtain confidentiality protection from the CPUC under Section 583 of the California Public Utilities Code or other statute, order or rule offering comparable confidentiality protection; *provided*, except as set forth in Sections 10.10(a)(vii), 10.10(a)(viii) and 10.10(b), as applicable, Seller may only disclose to the CPUC Confidential Information that is information on the bid and negotiation process of SCE's RPS solicitation. Seller shall provide Notice to SCE of any disclosure by Seller of Confidential Information pursuant to this Section 10.10(a)(iv) of this Agreement.
- (v) To the CAISO or as otherwise may reasonably be required in order to participate in any auction, market or other process pertaining to the allocation of priorities or rights related to the transmission of electric energy sold or to be sold to SCE hereunder;
- (vi) In order to comply with any Applicable Law or any exchange, control area or CAISO rule, or order issued by a court or entity with competent jurisdiction over the Disclosing Party, other than to those entities set forth in Section 10.10(a)(vii);
- (vii) In order to comply with any applicable regulation, rule, or order of the CPUC, CEC, *[Green-e® Energy,] {SCE Comment: Only applicable to GTSR Green Rate Projects only.}* FERC, any court, administrative agency, legislative body or other tribunal, or any mandatory discovery or data request of a party to any proceeding pending before any of the foregoing;
- (viii) To any governmental body, the CPUC, the CAISO or any local control area or regional authority having jurisdiction in order to support SCE's Resource Adequacy Requirement showings, if applicable; *provided*, SCE shall, to the extent reasonable, use reasonable efforts to limit the ability of any such applicable governmental body, CAISO, local control area or regional authority to further disclose such information;
- (ix) As may reasonably be required to participate in the WREGIS or other process recognized under Applicable Laws for the registration, transfer or ownership of Green Attributes associated with the Generating Facility;
- (x) To representatives of a Party's credit Ratings Agencies:
 - (1) Who have a need to review the terms and conditions of this Agreement for the purpose of assisting the Party in evaluating this

The contents of this document are subject to restrictions on disclosure as set forth herein.

Agreement for credit rating purposes and have agreed to keep this information confidential; or

- (2) With respect to the potential impact of this Agreement on the Party's financial reporting obligations;
- (xi) Disclosure of terms specified in and pursuant to Section 10.10(c);
- (xii) In connection with discovery requests or orders pertaining to the non-public terms of this Agreement as referenced in Sections 10.10(a)(vi) and 10.10(a)(vii) ("Disclosure Order") each Party shall, to the extent practicable, use reasonable efforts to:
 - (1) Notify the other Party before disclosing the Confidential Information; and
 - (2) Prevent or limit such disclosure.

After using such reasonable efforts, the Disclosing Party will not be:

- (3) Prohibited from complying with a Disclosure Order; or
- (4) Liable to the other Party for monetary or other damages incurred in connection with the disclosure of the Confidential Information.

Except as provided in the preceding sentence, the Parties are entitled to all remedies available at law or in equity to enforce, or seek relief in connection with this confidentiality obligation.

(b) Non-Disclosure Agreement.

- (i) The Parties acknowledge and agree that information provided by the Parties pursuant to this Agreement will be subject to the Non-Disclosure Agreement, or to any other agreement that the Parties negotiate to provide reasonable protection for their confidential business information or trade secrets.
- (ii) Confidential Information may only be used for the purposes set forth under the Non-Disclosure Agreement and for the purpose of implementing and enforcing this Agreement.

(c) RPS Confidentiality.

Notwithstanding Section 10.10(a), at any time on or after the Effective Date, either Party shall be permitted to disclose the following terms with respect to this Agreement:

- (i) Party names;
- (ii) ERR type;
- (iii) Term;
- (iv) Generating Facility location;

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- (v) Contract Capacity;
- (vi) Forecasted Commercial Operation Date;
- (vii) Delivery Point; and
- (viii) Generating Facility's expected energy deliveries.

10.11 Insurance.

- (a) Starting on the Effective Date and throughout the Delivery Term of this Agreement and for such additional periods as may be specified below, Seller, and to the extent not covered by the Seller's insurance policies, its contractors and subcontractors, shall, at their own expense, provide and maintain in effect the insurance policies and minimum limits of coverage specified below, and such additional coverage as may be required by applicable law, with insurance companies which are authorized to do business in the state in which the services are to be performed and which have an A.M. Best's Insurance Rating of not less than A-:VII. The minimum insurance requirements specified herein do not in any way limit or relieve Seller of any obligation assumed elsewhere in this Agreement, including, but not limited to, Seller's defense and indemnity obligations.
 - (i) Workers' Compensation Insurance with the statutory limits required by the state having jurisdiction over Seller's employees;
 - (ii) Employer's Liability Insurance with limits of not less than:
 - (1) Bodily injury by accident – One Million dollars (\$1,000,000) each accident
 - (2) Bodily injury by disease – One Million dollars (\$1,000,000) policy limit
 - (3) Bodily injury by disease – One Million dollars (\$1,000,000) each employee
 - (iii) Commercial General Liability Insurance, (which, except with the prior written consent of SCE and subject to subsections 10.11(a)(iii)(1) and 10.11(a)(iii)(2) below, shall be written on an "occurrence," not a "claims-made" basis), covering all operations by or on behalf of Seller arising out of or connected with this Agreement, including coverage for bodily injury, property damage, personal and advertising injury, products/completed operations, and contractual liability. Such insurance shall bear a per occurrence limit of not less than One Million dollars (\$1,000,000), and annual aggregate of not less than Two Million dollars (\$2,000,000), exclusive of defense costs, for all coverages. Such insurance shall contain standard cross-liability and severability of interest provisions.

If Seller elects, with SCE's written concurrence, to use a "claims made" form of Commercial General Liability Insurance, then the following additional requirements apply:

- (1) The retroactive date of the policy must be prior to the Effective Date; and
 - (2) Either the coverage must be maintained for a period of not less than four (4) years after the Agreement terminates, or the policy must provide for an extended reporting period of not less than four (4) years after the Agreement terminates.
- (iv) Commercial Automobile Liability Insurance covering bodily injury and property damage with a combined single limit of not less than One Million dollars (\$1,000,000) per occurrence. Such insurance shall cover liability arising out of Seller's use of all owned (if any), non-owned and hired vehicles, including trailers or semi-trailers in the performance of the Agreement.
- (v) Pollution Liability Insurance, (which, except with the prior written consent of SCE and subject to subsections 10.11(a)(v)(1) and 10.11(a)(v)(2) below, shall be written on an "occurrence," not a "claims-made" basis) with limits of not less than [] Million dollars (\$[],000,000) {*SCE Comment: Amount will be capped at \$5 million*} per occurrence or each claim and in the annual aggregate, covering losses involving hazardous material(s) and caused by pollution incidents or conditions that arise from the operations of the Seller, including but not limited to, coverage for bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death, property damage including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically damaged or destroyed, and defense costs.

If Seller elects, with SCE's written concurrence, to use a "claims made" form of Commercial General Liability Insurance, then the following additional requirements apply:

- (1) The retroactive date of the policy must be prior to the Effective Date; and
 - (2) Either the coverage must be maintained for a period of not less than three (3) years after the Agreement terminates, or the policy must provide for an extended reporting period of not less than three (3) years after the Agreement terminates.
- (vi) Umbrella/Excess Liability Insurance, written on an "occurrence," not a "claims-made" basis, providing coverage excess of the underlying Employer's Liability, Commercial General Liability, Commercial Automobile Liability and Pollution Liability insurance, on terms at least as

broad as the underlying coverage, with limits of not less than [] Million dollars (\$[],000,000) *{SCE Comment: Amount will be equal to \$1 million per MW of Contract Capacity, capped at \$20 million}* per occurrence and in the annual aggregate. The insurance requirements of this Section 10.11 can be provided by any combination of Seller's primary and excess liability policies.

If Seller elects, with SCE's written concurrence, to use a "claims made" form of Umbrella/Excess Liability Insurance, then the following additional requirements apply:

- (1) The retroactive date of the policy must be prior to the Effective Date; and
 - (2) Either the coverage must be maintained for a period of not less than three (3) years after the Agreement terminates, or the policy must provide for an extended reporting period of not less than three (3) years after the Agreement terminates.
- (b) The insurance required above shall apply as primary insurance to, without a right of contribution from, any other insurance maintained by or afforded to SCE, its subsidiaries and affiliates, and their respective officers, directors, shareholders, agents, and employees, regardless of any conflicting provision in Seller's policies to the contrary. To the extent permitted by law, Seller and its insurers shall be required to waive all rights of recovery from or subrogation against SCE, its subsidiaries and affiliates, and their respective officers, directors, shareholders, agents, employees and insurers. The Commercial General Liability, the Commercial Automobile Liability Policy, the Pollution Liability and the Umbrella/Excess Liability insurance required above shall include, either by policy terms and conditions or by endorsement, SCE, its parent, subsidiaries and affiliates, and their respective officers, directors, shareholders, agents and employees, assigns, and successors in interest, as additional insureds for liability arising out of Seller's construction, ownership or Operation of the Generating Facility, or obligations or performance, under this Agreement.
- (c) All policies required by Sections 10.11(a)(i) through 10.11(a)(vi) shall be written on a "per project" or "per contract" basis.
- (d) Within ten (10) Business Days after the Effective Date, and within ten (10) Business Days after coverage is renewed or replaced, Seller shall furnish to SCE the entire policy forms, including endorsements, and certificates of insurance evidencing the coverage required above, written on forms and with deductibles reasonably acceptable to SCE. All deductibles and co-insurance retentions applicable to the insurance above shall be paid by Seller. Seller, or its insurance broker or agent, shall provide SCE with at least thirty (30) days' prior written notice in the event of cancellation of coverage. SCE's receipt of certificates that do not comply with the requirements stated herein, or Seller's failure to provide

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certificates, shall not limit or relieve Seller of the duties and responsibility of maintaining insurance in compliance with the requirements in this Section 10.11 and shall not constitute a waiver of any of the requirements in this Section 10.11.

- (e) Seller agrees to report to SCE in writing within ten (10) Business Days following all accidents or occurrences resulting in bodily injury to any person, and to any property where such property damage is greater than \$100,000.
- (f) If Seller fails to comply with any of the provisions of this Section 10.11, Seller, among other things and without restricting SCE's remedies under the law or otherwise, shall, at its own cost and expense, act as an insurer and provide insurance in accordance with the terms and conditions above. With respect to the required Commercial General Liability, Umbrella/Excess Liability, Pollution Liability and Commercial Automobile Liability insurance, Seller shall provide a current, full and complete defense to SCE, its subsidiaries and affiliates, and their respective officers, directors, shareholders, agents, employees, assigns, and successors in interest, in response to a third-party claim in the same manner that an insurer would have, had the insurance been maintained in accordance with the terms and conditions set forth above. In addition, alleged violations of the provisions of this Section 10.11 means that Seller has the initial burden of proof regarding any legal justification for refusing or withholding coverage and Seller shall face the same liability and damages as an insurer for wrongfully refusing or withholding coverage in accordance with the laws of California.

10.12 Nondedication.

Notwithstanding any other provisions of this Agreement, neither Party dedicates any of the rights that are or may be derived from this Agreement or any part of its facilities involved in the performance of this Agreement to the public or to the service provided under this Agreement, and this service shall cease upon termination of this Agreement.

10.13 Mobile Sierra.

Absent the agreement of all Parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Agreement, whether proposed by a Party (to the extent that any waiver in the next paragraph below is unenforceable or ineffective as to such Party), a non-party or FERC acting sua sponte, shall be the 'public interest' standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), and clarified by *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish* 554 U.S. 527 (2008); *NRG Power Marketing LLC v. Maine Public Utility Commission*, 558 U.S. 527 (2010).

Notwithstanding any provision of Agreement, and absent the prior written agreement of the Parties, each Party, to the fullest extent permitted by Applicable Laws, for itself and its respective successors and assigns, hereby also expressly and irrevocably waives any

rights it can or may have, now or in the future, whether under Sections 205, 206, or 306 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation, supporting a third party seeking to obtain or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any Section of this Agreement specifying any rate or other material economic terms and conditions agreed to by the Parties.

10.14 Late Payment Simple Interest.

Except as specifically provided in this Agreement, any outstanding and past due amounts owing and unpaid by either Party under the terms of this Agreement will be eligible to receive an Interest Payment for the number of days between the date due and the date paid.

10.15 Payments.

Payments to be made under this Agreement must be made by wire transfer or Automated Clearing House.

10.16 Seller Ownership and Control of Generating Facility.

Seller agrees, that, in accordance with FERC Order No. 697, upon request of SCE, Seller shall submit a letter of concurrence in support of any affirmative statement by SCE that the contractual arrangement set forth in this Agreement does not transfer “ownership or control of generation capacity” from Seller to SCE as the term “ownership or control of generation capacity” is used in 18 CFR Section 35.42. Seller also agrees that it will not, in filings, if any, made subject to FERC Order Nos. 652 and 697, claim that the contractual arrangement set forth in this Agreement conveys ownership or control of generation capacity from Seller to SCE.

10.17 Required Material.

Seller acknowledges and agrees that, notwithstanding anything to the contrary set forth herein, any review, approval, request, or requirement of any Required Material shall mean only that such Required Material is acceptable to SCE solely for SCE’s internal purposes and benefit, and will not in any way be construed to mean that such Required Material is accurate, suitable for its intended purpose, in compliance with any Applicable Law or other requirement, or endorsed for the benefit of any other party, including Seller. Further, Seller acknowledges and agrees that SCE shall have no liability to Seller or any other third party with respect to any Required Material so reviewed, approved, requested or required by SCE or on SCE’s behalf.

10.18 Shared Facilities and Portfolio Financing Acknowledgements, Etc.

- (a) SCE acknowledges and agrees that, subject to the terms and conditions set forth in this Agreement, (i) Seller has represented to SCE that the Shared Facilities are, or will or may be, subject to sharing and common ownership, use and financing

arrangements between Seller and the Other Seller(s), and (ii) all such arrangements, including any and all related rights, liabilities, obligations and financings (including any pledge or collateral assignments in connection with such arrangements) shall be permitted by, and are not in conflict with, and do not give rise to any default under, this Agreement.

- (b) SCE acknowledges and agrees that, subject to the terms and conditions set forth in this Agreement, (i) Seller has represented to SCE that Seller may elect to finance all or any portion of the Generating Facility, along with the Other Seller(s) (or the Other Generating Facility(ies) or the Shared Facilities, on a Portfolio or other aggregated basis, which may include cross-collateralization or similar arrangements requested by Lenders to enable such financing, and (ii) all such arrangements are not in conflict with, and do not give rise to any default under, this Agreement.
- (c) The Parties shall cooperate with one another as may be reasonably requested by the other Party to provide such further approvals or acknowledgements in connection with Sections 10.19(a) and (b).

{SCE Comment: Language applicable to projects that utilize Shared Facilities.}

10.19 Consolidation of Seller's Financial Statements.

- (a) SCE shall determine, through consultation with its internal accountants and review with their independent registered public accounting firm, whether SCE is required to consolidate Seller's financial statements with SCE's financial statements for financial accounting purposes under Accounting Standards Codification (ASC) 810/Accounting Standards Update 2009-17, "Consolidation of Variable Interest Entities" (ASC 810), or future guidance issued by accounting profession governance bodies or the SEC that affects SCE accounting treatment for this Agreement (the "Financial Consolidation Requirement").
- (b) If the Financial Consolidation Requirement is applicable, then:
 - (i) Within twenty (20) days following the end of each calendar year (for each year that such treatment is required), Seller shall deliver to SCE unaudited financial statements and related footnotes, if applicable, of Seller as of the end of the year. The annual financial statements should include quarter-to-date and yearly information. SCE shall provide to Seller a checklist before the end of each year listing the items which SCE believes are material to SCE and required for this purpose, and Seller shall provide the information on the checklist, subject to the availability of data from Seller's records. It is permissible for Seller to use accruals and prior months' estimates with true-up to actual activity, in subsequent periods, when preparing unaudited financial statements and the information on the checklist. If audited financial statements are prepared for Seller for the

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- year, Seller shall provide such statements to SCE within five (5) Business Days after those statements are issued.
- (ii) Within fifteen (15) days following the end of each fiscal quarter (for each quarter that such treatment is required), Seller shall deliver to SCE unaudited financial statements and related footnotes, if applicable, of Seller as of the end of the quarterly period. The financial statements should include quarter-to-date and year-to-date information. SCE shall provide to Seller a checklist before the end of each quarter listing items which SCE believes are material to SCE and required for this purpose, and Seller shall provide the information on the checklist, subject to the availability of data from Seller's records. It is permissible for Seller to use accruals and prior months' estimates with true-up to actual activity, in subsequent periods, when preparing the unaudited financial statements and the information on the checklist.
 - (iii) If Seller regularly prepares its financial data in accordance with GAAP or IFRS, the financial information provided to SCE shall be prepared in accordance with such principles. If Seller is not a SEC registrant and does not regularly prepare its financial data in accordance with GAAP or IFRS, the information provided to SCE shall be prepared in a format consistent with Seller's regularly applied accounting principles, e.g., the format that Seller uses to provide financial data to its auditor.
- (c) If the Financial Consolidation Requirement is applicable, then promptly upon Notice from SCE, Seller shall allow SCE's independent registered public accounting firm such access to Seller's records and personnel, as reasonably required so that SCE's independent registered public accounting firm can conduct financial statement audits in accordance with the standards of the Public Company Accounting Oversight Board (United States), as well as internal control audits in accordance with Section 404 of the Sarbanes-Oxley Act of 2002, as applicable. All expenses for the foregoing work of SCE's independent registered public accounting firm shall be borne by SCE. If SCE's independent registered public accounting firm during or as a result of the audits permitted in this Section 10.19(c) determines a material weakness or significant deficiency, as defined by GAAP or IFRS, as applicable, exists in Seller's internal controls over financial reporting, then within ninety (90) days of Seller's receipt of Notice from SCE, Seller shall remediate any such material weakness or significant deficiency; *provided, however*, that Seller has the right to challenge the appropriateness of any determination of material weakness or significant deficiency. Seller's true up to actual activity for yearly or quarterly information as provided herein shall not be evidence of material weakness or significant deficiency.
- (d) SCE shall treat Seller's financial statements and other financial information provided under the terms of this Section 10.19 in strict confidence and, accordingly:

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- (i) Shall utilize such Seller financial information *only* for purposes of preparing, reviewing or certifying SCE's or any SCE parent company financial statements, for making regulatory, tax or other filings required by law in which SCE is required to demonstrate or certify its or any parent company's financial condition or to obtain credit ratings;
 - (ii) Shall make such Seller financial information available only to its officers, directors, employees or auditors who are responsible for preparing, reviewing or certifying SCE's or any SCE parent company financial statements, to the SEC and the Public Company Accounting Oversight Board (United States) in connection with any oversight of SCE's or any SCE parent company financial statement and to those persons who are entitled to receive confidential information as identified in Section 10.10; and
 - (iii) SCE shall ensure that its internal auditors and independent registered public accounting firm (1) treat as confidential any information disclosed to them by SCE pursuant to this Section 10.19, (2) use such information solely for purposes of conducting the audits described in this Section 10.19, and (3) disclose any information received only to personnel responsible for conducting the audits.
- (e) If the Financial Consolidation Requirement is applicable, then, within two (2) Business Days following the occurrence of any event from the Effective Date through the last day of the Term affecting Seller which Seller would be required to disclose in a Form 8-K filing with the SEC if Seller was subject to the form 8-K filing requirements, Seller shall provide to SCE a Notice describing such event in sufficient detail to permit SCE to make a Form 8-K filing.

If, after consultation and review, the Parties do not agree on issues raised by Section 10.19(a), then such dispute shall be subject to review by another independent audit firm not associated with either Party's respective independent registered public accounting firm, reasonably acceptable to both Parties. This third-party independent audit firm will render its recommendation on whether consolidation by SCE is required. If the independent audit firm associated with SCE still determines, after review by the third-party independent audit firm, that SCE must consolidate, then Seller shall provide the financial information necessary to permit consolidation to SCE; *provided, however*, that in addition to the protections in Section 10.19(d), such information shall be password protected and available only to those specific officers, directors, employees and auditors who are preparing and certifying the consolidated financial statements and not for any other purpose.

*** End of ARTICLE TEN ***

The contents of this document are subject to restrictions on disclosure as set forth herein.

ARTICLE ELEVEN. CHANGE IN ELECTRIC MARKET DESIGN

If a Change in CAISO Tariff renders this Agreement or any terms herein incapable of being performed or administered, then either Party, on Notice, may request the other Party to enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens and obligations set forth in this Agreement as of the Effective Date.

Upon receipt of a Notice requesting negotiations, the Parties shall negotiate in good faith.

If the Parties are unable, within sixty (60) days after the sending of the Notice requesting negotiations, either to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then either Party may submit issues pertaining to changes to this Agreement to mediation and arbitration as provided in Article Twelve.

A change in cost will not in itself be deemed to render this Agreement or any terms therein incapable of being performed or administered, or constitute, or form the basis of, a Force Majeure event.

*** End of ARTICLE ELEVEN ***

ARTICLE TWELVE. MEDIATION AND ARBITRATION**12.01 Dispute Resolution.**

Other than requests for provisional relief under Section 12.04, any and all Disputes which the Parties have been unable to resolve by informal methods after undertaking a good faith effort to do so, must first be submitted to mediation under the procedures described in Section 12.02 below, and if the matter is not resolved through mediation, *then* for final and binding arbitration under the procedures described in Section 12.03 below.

The Parties waive any right to a jury and agree that there will be no interlocutory appellate relief (such as writs) available. Any Dispute resolution process shall be commenced no later than one (1) year from the date the Dispute occurred; *provided*, if the facts giving rise to the Dispute were not reasonably capable of being discovered at the time of their occurrence, then no later than one (1) year from the earliest date that such facts were reasonably capable of being discovered, and in no event more than four (4) years after the Dispute occurred. If any Dispute resolution process pursuant to Article Twelve with respect to a Dispute is not commenced within such one (1) year time period, such Dispute shall be waived and forever barred, without regard to any other limitations period set forth by law or statute.

12.02 Mediation.

Either Party may initiate mediation by providing Notice to the other Party in accordance with Section 10.09 of a written request for mediation, setting forth a description of the Dispute and the relief requested.

The Parties will cooperate with one another in selecting the mediator ("Mediator") from the panel of neutrals from Judicial Arbitration and Mediation Services, Inc. ("JAMS"), its successor, or any other mutually acceptable non-JAMS Mediator, and in scheduling the time and place of the mediation.

Such selection and scheduling will be completed within forty-five (45) days after Notice of the request for mediation.

Unless otherwise agreed to by the Parties, the mediation will not be scheduled for a date that is greater than one hundred twenty (120) days from the date of Notice of the request for mediation.

The Parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs (other than each Party's individual attorneys' fees and costs related to the Party's participation in the mediation, which fees and costs will be borne by such Party).

All offers, promises, conduct and statements, whether oral or written, made in connection with or during the mediation by either of the Parties, their agents, representatives, employees, experts and attorneys, and by the Mediator or any of the Mediator's agents, representatives and employees, will not be subject to discovery and will be confidential,

privileged and inadmissible for any purpose, including impeachment, in any arbitration or other proceeding between or involving the Parties, or either of them, *provided*, evidence that is otherwise admissible or discoverable will not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

12.03 Arbitration.

Either Party may initiate binding arbitration with respect to the matters first submitted to mediation by providing Notice in accordance with Section 10.08 of a demand for binding arbitration before a single, neutral arbitrator (the “Arbitrator”) within sixty (60) days following the unsuccessful conclusion of the mediation provided for in Section 12.02, above. If Notice of arbitration is not provided by either Party within sixty (60) days following the unsuccessful conclusion of the mediation provided for in Section 12.02 above, the Dispute resolution process shall be deemed complete and further resolution of such Dispute shall be barred, without regard to any other limitations period set forth by law or statute.

The Parties will cooperate with one another in selecting the Arbitrator within sixty (60) days after Notice of the demand for arbitration and will further cooperate in scheduling the arbitration to commence no later than one hundred eighty (180) days from the date of Notice of the demand.

If, notwithstanding their good faith efforts, the Parties are unable to agree upon a mutually-acceptable Arbitrator, the Arbitrator will be appointed as provided for in California Code of Civil Procedure Section 1281.6.

To be qualified as an Arbitrator, each candidate must be a retired judge of a trial court of any state or federal court, or retired justice of any appellate or supreme court.

Unless otherwise agreed to by the Parties, the individual acting as the Mediator will be disqualified from serving as the Arbitrator in the dispute, although the Arbitrator may be another member of the JAMS panel of neutrals or such other panel of neutrals from which the Parties have agreed to select the Mediator.

Upon Notice of a Party’s demand for binding arbitration, such Dispute submitted to arbitration, including the determination of the scope or applicability of this agreement to arbitrate, will be determined by binding arbitration before the Arbitrator, in accordance with the laws of the State of California, without regard to principles of conflicts of laws.

Except as provided for herein, the arbitration will be conducted by the Arbitrator in accordance with the rules and procedures for arbitration of complex business disputes for the organization with which the Arbitrator is associated.

Absent the existence of such rules and procedures, the arbitration will be conducted in accordance with the California Arbitration Act, California Code of Civil Procedure Section 1280 *et seq.* and California procedural law (including the Code of Civil Procedure, Civil Code, Evidence Code and Rules of Court, but excluding local rules).

Notwithstanding the rules and procedures that would otherwise apply to the arbitration, and unless the Parties agree to a different arrangement, the place of the arbitration will be in Los Angeles County, California.

Also notwithstanding the rules and procedures that would otherwise apply to the arbitration, and unless the Parties agree to a different arrangement, discovery will be limited as follows:

- (a) Before discovery commences, the Parties shall exchange an initial disclosure of all documents and percipient witnesses which they intend to rely upon or use at any arbitration proceeding (except for documents and witnesses to be used solely for impeachment);
- (b) The initial disclosure will occur within thirty (30) days after the initial conference with the Arbitrator or at such time as the Arbitrator may order;
- (c) Discovery may commence at any time after the Parties' initial disclosure;
- (d) The Parties will not be permitted to propound any interrogatories or requests for admissions;
- (e) Discovery will be limited to twenty-five (25) document requests (with no subparts), three (3) lay witness depositions, and three (3) expert witness depositions (unless the Arbitrator holds otherwise following a showing by the Party seeking the additional documents or depositions that the documents or depositions are critical for a fair resolution of the Dispute or that a Party has improperly withheld documents);
- (f) Each Party is allowed a maximum of three (3) expert witnesses, excluding rebuttal experts;
- (g) Within sixty (60) days after the initial disclosure, or at such other time as the Arbitrator may order, the Parties shall exchange a list of all experts upon which they intend to rely at the arbitration proceeding;
- (h) Within thirty (30) days after the initial expert disclosure, the Parties may designate a maximum of two (2) rebuttal experts;
- (i) Unless the Parties agree otherwise, all direct testimony will be in form of affidavits or declarations under penalty of perjury; and
- (j) Each Party shall make available for cross examination at the arbitration hearing its witnesses whose direct testimony has been so submitted.

Subject to Article Seven, the Arbitrator will have the authority to grant any form of equitable or legal relief a Party might recover in a court action. The Parties acknowledge and agree that irreparable damage would occur if certain provisions of this Agreement are not performed in accordance with the terms of the Agreement, that money damages would not be a sufficient remedy for any breach of these provisions of this Agreement, and that the Parties shall be entitled, without the requirement of posting a bond or other

security, to specific performance and injunctive or other equitable relief as a remedy for a breach of Section 2.04(b), 3.01, [3.02,] 3.06(b), 3.09 or 10.10 of this Agreement.

Judgment on the award may be entered in any court having jurisdiction.

The Arbitrator must, in any award, allocate all of the costs of the binding arbitration (other than each Party's individual attorneys' fees and costs related to the Party's participation in the arbitration, which fees and costs will be borne by such Party), including the fees of the Arbitrator and any expert witnesses, against the Party who did not prevail.

Until such award is made, however, the Parties will share equally in paying the costs of the arbitration.

At the conclusion of the arbitration hearing, the Arbitrator shall prepare in writing and provide to each Party a decision setting forth factual findings, legal analysis, and the reasons on which the Arbitrator's decision is based. The Arbitrator shall also have the authority to resolve claims or issues in advance of the arbitration hearing that would be appropriate for a California superior court judge to resolve in advance of trial. The Arbitrator shall not have the power to commit errors of law or fact, or to commit any abuse of discretion, that would constitute reversible error had the decision been rendered by a California superior court. The Arbitrator's decision may be vacated or corrected on appeal to a California court of competent jurisdiction for such error. Unless otherwise agreed to by the Parties, all proceedings before the Arbitrator shall be reported and transcribed by a certified court reporter, with each Party bearing one-half of the court reporter's fees.

12.04 Provisional Relief.

The Parties acknowledge and agree that irreparable damage would occur if certain provisions of this Agreement are not performed in accordance with the terms of this Agreement, that money damages would not be a sufficient remedy for any breach of these provisions of this Agreement, and that the Parties shall be entitled, without the requirement of posting a bond or other security, to seek a preliminary injunction, temporary restraining order, or other provisional relief as a remedy for a breach of Section 2.04(b), 3.01, [3.02,] 3.06(b), 3.09 or 10.10 of this Agreement in any court of competent jurisdiction, notwithstanding the obligation to submit all other disputes (including all claims for monetary damages under this Agreement) to arbitration pursuant to Section 12.01. The Parties further acknowledge and agree that the results of the arbitration may be rendered ineffectual without the provisional relief.

Such a request for provisional relief does not waive a Party's right to seek other remedies for the breach of the provisions specified above in accordance with Section 12.01, notwithstanding any prohibition against claim-splitting or other similar doctrine. The other remedies that may be sought include specific performance and injunctive or other equitable relief, plus any other remedy specified in this Agreement for the breach of the provision, or if the Agreement does not specify a remedy for the breach, all other remedies available at law or equity to the Parties for the breach.

*** End of ARTICLE TWELVE ***

The contents of this document are subject to restrictions on disclosure as set forth herein.

RAP ID# [Number], [Seller's Name]

In WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date first written:

[SELLER'S NAME],

*a [Seller's jurisdiction of organization
and type of organization].*

**SOUTHERN CALIFORNIA EDISON
COMPANY,**

a California corporation.

By:

By:

[Name]

[Name]

[Title]

[Title]

Date: _____

Date: _____

The contents of this document are subject to restrictions on disclosure as set forth herein.

Signatures

EXHIBITS

EXHIBIT A

Definitions

The following terms shall have the following meaning for purposes of this Agreement.

“AC” means alternating current.

“Accepted Compliance Costs” has the meaning set forth in Section 1.07.

“Account Holder” has the meaning set forth in the WREGIS Operating Rules, as applicable to the Generating Facility as the Registered Generating Unit.

“Actual Availability Report” means a report to be prepared by Seller in the form of Exhibit O containing the information described in Section 3.22.

“Actual Available Capacity” means the sum of the capacity, in MWs, of all generating units of the Generating Facility that were available at the end of the Settlement Interval, as indicated by the Actual Availability Report.

{SCE Comment: All resources other than Solar Photovoltaic.}

“Actual Available Capacity” means the sum of the capacity, in MWs, of all Current Inverters of the Generating Facility that were available at the end of the Settlement Interval, as indicated by the Actual Availability Report.

{SCE Comment: Solar Photovoltaic only.}

“Affiliate” means, with respect to a Party, any entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with that Party.

“Affiliate Manager” has the meaning set forth in Section 3.05(a). *{SCE Comment: Language applicable to projects that utilize Shared Facilities.}*

“Aggregate Network Upgrade Costs” has the meaning set forth in Section 2.03(b)(i).

“Agreement” has the meaning set forth in the Preamble.

“Annual Degradation Factor” has the meaning set forth in Section 1.01(j).

{SCE Comment: Solar Photovoltaic only.}

“Applicable Laws” means all constitutions, treaties, laws, ordinances, rules, regulations, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority that apply to either or both of the Parties, the Generating Facility or the terms of this Agreement.

“Arbitrator” has the meaning set forth in Article Twelve.

The contents of this document are subject to restrictions on disclosure as set forth herein.

“Automated Clearing House” means the electronic funds transfer system operated by the Automated Clearing House Network or any successor entity.

“Availability Incentive Payments” has the meaning set forth in the CAISO Tariff.

“Availability Standards” has the meaning set forth in the CAISO Tariff.

“Availability Workbook” has the meaning set forth in Exhibit O.

“Bankrupt” means with respect to any entity, such entity:

- (a) Files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it;
- (b) Makes an assignment or any general arrangement for the benefit of creditors;
- (c) Otherwise becomes bankrupt or insolvent (however evidenced);
- (d) Has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to such entity or any substantial portion of its property or assets; or
- (e) Is generally unable to pay its debts as they fall due.

“Bankruptcy Code” means the United States Bankruptcy Code (11 U.S.C. §101 *et seq.*), as amended, and any successor statute.

“Bid” has the meaning as set forth in the CAISO Tariff.

“Business Day” means any day except a Saturday, Sunday, a Federal Reserve Bank holiday, or the Friday following Thanksgiving. A Business Day begins at 8:00 a.m. and end at 5:00 p.m. local time for the Party sending the Notice or payment or performing a specified action.

“Business Practice Manuals” or “BPMs” has the meaning as set forth in the CAISO Tariff.

“Buyer” means Southern California Edison Company.

“CAISO” means the California Independent System Operator Corporation.

“CAISO Approved Meter” means a CAISO approved revenue quality meter or meters, CAISO approved data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, all electric energy produced by the Generating Facility less Station Use.

“CAISO-Controlled Grid” has the meaning as set forth in the CAISO Tariff.

“CAISO Costs” means the debits, costs, penalties and interest that are directly assigned by the CAISO to the CAISO Resource ID for the Generating Facility for, or attributable to, Scheduling or deliveries from the Generating Facility under this Agreement in each applicable Settlement Interval.

“CAISO Exemption” means that certain exemption letter granted by the CAISO, or any successors thereto, that permits Seller to install the low-side metering scheme required by the Shared Transformer, as required under Section 10.2.10.3 of the CAISO Tariff.

“CAISO Exemption Cure Period” shall have the meaning set forth in Section 6.02(c). *{SCE Comment: Language only applicable to projects that utilize a shared transformer.}*

“CAISO Markets” has the meaning as set forth in the CAISO Tariff.

“CAISO Resource ID” means the number or name assigned by the CAISO to the CAISO Approved Meter.

“CAISO Revenues” means the credits and other payments incurred or received by SCE as a result of energy from the Generating Facility delivered to any CAISO administered market by Seller, including costs and revenues associated with CAISO dispatches, for each applicable Settlement Interval.

“CAISO Sanctions” means any sanctions directly assigned by the CAISO to Seller, the CAISO Resource ID or the Generating Facility.

“CAISO Tariff” means the California Independent System Operator Corporation Tariff, Business Practice Manuals (BPMs), Operating Agreement, and Operating Procedures, including the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time-to-time and approved by FERC, if applicable.

“Calculation Period” has the meaning set forth in Section 3.07(a)(i).

“California Renewables Portfolio Standard” means the California Public Utilities Code Section 399.11, *et seq.*

“Capacity Attributes” means any and all current or future defined characteristics, certificates, tags, credits, ancillary service attributes, or accounting constructs, howsoever entitled, including any accounting construct counted toward any Resource Adequacy Requirements, attributed to or associated with the Generating Facility or any unit of generating capacity of the Generating Facility throughout the Delivery Term, including:

- (a) resource adequacy attributes, as may be identified from time to time by the CPUC, CAISO, or other Governmental Authority having jurisdiction, that can be counted toward RAR;

- (b) resource adequacy attributes or other locational attributes for the Generating Facility related to a Local Capacity Area, as may be identified from time to time by the CPUC, CAISO or other Governmental Authority having jurisdiction, associated with the physical location or point of electrical interconnection of the Generating Facility within the CAISO-Controlled Grid, that can be counted toward a Local RAR; and
- (c) flexible capacity resource adequacy attributes for the Generating Facility, including, without limitation, the amount of EFC as may be identified from time to time by the CPUC, CAISO, or other Governmental Authority having jurisdiction, that can be counted toward Flexible RAR.

“Capacity Procurement Mechanism” or “CPM” has the meaning as set forth in the CAISO Tariff.

{SCE Comment: FCDS projects only.}

“CEC” means the California Energy Commission.

“CEC Certification” means certification by the CEC that the Generating Facility is an ERR for purposes of the RPS Legislation and that all electric energy produced by the Generating Facility qualifies as generation from an ERR for purposes of the RPS Legislation.

“CEC Pre-Certification” means provisional certification of the proposed Generating Facility as an ERR by the CEC upon submission by a facility of a complete CEC-RPS-1B application and required supplemental information.

“CEC Verification” means verification by the CEC based on ongoing reporting by Seller that the Generating Facility is an ERR for purposes of the RPS Legislation and that all electric energy produced by the Generating Facility qualifies as generation from an ERR for purposes of the RPS Legislation.

“CFR” means the Code of Federal Regulations, as may be amended from time to time.

“Change in CAISO Tariff” means that the CAISO Tariff has been changed and such change has a material adverse impact on either Party, or the CAISO has been dissolved or replaced and any successor to the CAISO operates under rules, protocols, procedures or standards that differ in a material respect from the CAISO Tariff, after the Effective Date.

“Check Meter” means the SCE revenue-quality meter section or meter, which SCE may require at its discretion, as set forth in Section 3.08(b), and which will include those devices normally supplied by SCE or Seller under the applicable utility electric service requirements.

“Claiming Party” has the meaning set forth in Section 5.02.

“Collateral Assignment” has the meaning set forth in Section 10.05.

“Collateral Assignment Agreement” has the meaning set forth in Section 10.05.

“Commercial Operation” is the status of the Generating Facility upon Seller’s satisfaction of all of the conditions set forth in Section 2.02(b) and as of the Commercial Operation Date.

“Commercial Operation Date” has the meaning set forth in Section 2.02(b).

“Commercial Operation Deadline” has the meaning set forth in Section 1.03.

“Compliance Actions” has the meaning set forth in Section 1.07.

“Compliance Expenditure Cap” means the dollar amount set forth in Section 1.07.

“Confidential Information” shall mean (i) this Agreement, (ii) all oral or written communications exchanged between the Parties pursuant to this Agreement, except for communications and information described in Section 10.10(c) of this Agreement, and (iii) all oral or written communications exchanged between the Parties as part of, or arising out of, Seller’s Proposal (including the fact that Seller submitted a Proposal, and, the fact that SCE short-listed the Proposal).

“Construction Permits” means any permits issued by the Governmental Authority having jurisdiction that grant Seller the authority to develop and construct the Generating Facility on the Site. Construction Permits include conditional use permit and authority to construct.

“Contract Capacity” means the lesser of (i) the amount of electric energy generating capacity, set forth in Section 1.01(h), that Seller commits to install at the Site and (ii) the Demonstrated Contract Capacity.

“Control Area” means the electric power system (or combination of electric power systems) under the operational control of the CAISO or any other electric power system under the operational control of another organization vested with authority comparable to that of the CAISO.

“Costs” means, with respect to the Non-Defaulting Party, brokerage fees, commissions, legal expenses and other similar third-party transaction costs and expenses reasonably incurred by that Party in entering into any new arrangement which replaces this Agreement.

“CPUC” means the California Public Utilities Commission.

“CPUC Approval” means a final and non-appealable order of the CPUC, without conditions or modifications unacceptable to the Parties, or either of them, which contains the following terms:

- (a) Approves this Agreement in its entirety, including payments to be made by the Buyer, subject to CPUC review of the Buyer's administration of the Agreement; and
- (b) Finds that any procurement pursuant to this Agreement is procurement from an eligible renewable energy resource for purposes of determining Buyer's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 *et seq.*), Decision 03-06-071, or other applicable law.

CPUC Approval will be deemed to have occurred on the date that a CPUC decision containing such findings becomes final and non-appealable.

"Credit Rating" means with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt or deposit obligations (not supported by third-party credit enhancement) by the Ratings Agencies. If no rating is assigned to such entity's unsecured, senior long-term debt or deposit obligation by any Ratings Agency, then "Credit Rating" means the general corporate credit rating or long-term issuer rating assigned to such entity by the Ratings Agencies. If any entity is rated by more than one Ratings Agency and the ratings are at different levels, then "Credit Rating" means the lowest such rating.

"Current Inverters" means devices used to convert DC electric energy to AC electric energy.
{SCE Comment: For Solar Photovoltaic only.}

"Curtailed Product" or "CP" means energy that could have been delivered to the Delivery Point by Seller but which was not delivered (i) due to Seller's curtailment in accordance with Section 3.12(g)(iii), or (ii) if the CAISO Tariff prohibits, without any action by the CAISO or any Transmission Provider, any electric generating facilities from delivery of energy in excess of its Schedule, any such energy that the Generating Facility was precluded from delivering. The amount of energy that could have been delivered will be determined in accordance with Section 3.21 and Exhibit K.

"Curtailed Product Payment" means, in each month, the sum of all payments for [(i)] Paid Curtailed Product, [and (ii) any lost Federal Production Tax Credits as set forth in Section 4.01(d)]. *{SCE Comment: for Sellers that are eligible for the Federal Production Tax Credit}*

"Curtailment Order" means an order from SCE to Seller to reduce or stop the delivery of electric energy from the Generating Facility to SCE for any reason except as set forth in Sections 3.12(g)(i)-(ii).

"Daily Delay Liquidated Damages" has the meaning set forth in Section 3.06(d).

"DC" means direct current.

“DC Collection System” means the DC equipment, cables, components, devices and materials that interconnect the Photovoltaic Modules with the Current Inverters.

{SCE Comment: For Solar Photovoltaic only.}

“Defaulting Party” has the meaning set forth in Section 6.01.

“Delivery Network Upgrades” has the meaning forth in the CAISO Tariff, as applicable to the Generating Facility.

“Delivery Point” means the point of delivery of Product to the CAISO-Controlled Grid, as specified in Section 1.01(f) and set forth in the single-line diagram of the CAISO-Controlled Grid interconnection set forth in Exhibit B.

{SCE Comment: For a Generating Facility not directly connected to the CAISO-Controlled Grid, located outside the CAISO Control Area or connected to another transmission system operator, the Delivery Point will be the first point of interconnection with the CAISO-Controlled Grid.}

“Delivery Term” means the period beginning with the Commercial Operation Date and continuing throughout the end of the Term.

“Demonstrated Contract Capacity” means the Generating Facility’s total rated electric alternating current energy generating capacity

, which will equal the sum of the Inverter Block Unit Capacity of all Inverter Block Units in the Generating Facility

{SCE Comment: Solar Photovoltaic only.}

, which will equal the sum of the manufacturer’s nameplate ratings of all installed Wind Turbines, consistent with Prudent Electrical Practices and accepted industry standards, as indicated on the nameplates physically attached to the individual Wind Turbine generators,

{SCE Comment: Wind only.}

, which will equal the sum of the Metered Amounts for the Demonstration Hour,

{SCE Comment: All other technologies.}

as determined in accordance with Exhibit J.

“Demonstrated Installed DC Rating” means the sum of the Photovoltaic Module DC Ratings for all Photovoltaic Modules of the Generating Facility actually installed at the Site and verified by SCE pursuant to Exhibit J.

{SCE Comment: Solar Photovoltaic only.}

“Demonstration Date” has the meaning set forth in Exhibit J.

{SCE Comment: Intermittent only.}

“Demonstration Hour” has the meaning set forth in Exhibit J.
{SCE Comment: *Baseload only.*}

“Development Security” has the meaning set forth in Section 8.01.

“Disclosing Party” has the meaning set forth in Section 10.10.

“Disclosure Order” has the meaning set forth in Section 10.10.

“Dispatch Instruction” has the meaning forth in the CAISO Tariff.

“Dispute” means any and all disputes, claims or controversies arising out of, relating to, concerning or pertaining to the terms of this Agreement, or to either Party’s performance or failure of performance under this Agreement.

“Disqualified Stock” means any capital stock that, by its terms (or by the terms of any security into which such stock is convertible, or for which such stock is exchangeable, in each case at the option of the holder of the capital stock), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder of the capital stock, in whole or in part, on or before the date that is ninety-one (91) days after the expiration of the Term of this Agreement.

“Diverse Business Enterprises” means a women, minority, disabled veteran, lesbian, gay, bisexual or transgender business enterprise, as more particularly set forth in CPUC General Order 156.

“DLF” means a number that is a representation for all net electric energy losses or avoided losses, as filed by SCE at FERC, associated with the transmission of electric energy through the electric system from the high voltage side of the Generating Facility’s substation bus bar to the interface with the CAISO-Controlled Grid, also known as the distribution loss factor.

“Early Termination Date” has the meaning set forth in Section 6.02.

“EFC” means the effective flexible capacity (in MWs) of the Generating Facility pursuant to the Resource Adequacy Rulings and CAISO Tariff, in each case to the extent applicable, and which such flexible capacity may be used to satisfy a load-serving entity’s Flexible RAR.

“Effective Date” has the meaning set forth in the Preamble.

“Eligible Intermittent Resource Protocol” or “EIRP” means the CAISO’s intermittent resource program initially established pursuant to the CAISO Tariff or any successor program that SCE determines accomplishes a similar purpose.
{SCE Comment: *Intermittent only.*}

“Emergency” means:

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- (a) An actual or imminent condition or situation which jeopardizes the integrity of Transmission Provider's electric system or the integrity of any other systems to which the Transmission Provider's electric system is connected, as determined by the Transmission Provider in its reasonable discretion, or any condition so defined and declared by the CAISO; or
- (b) An emergency condition as defined under an interconnection agreement and any abnormal interconnection or system condition that requires automatic or immediate manual action to prevent or limit loss of load or generation supply, that could adversely affect the reliability of the Transmission Provider's electric system or generation supply, that could adversely affect the reliability of any interconnected system, or that could otherwise pose a threat to public safety.

"Energy Communication Network" means the CAISO infrastructure network (data highway) used by all CAISO participants to exchange data to and from resources and CAISO.

"Energy Deviations" means the absolute value of the difference, in kWh, in any Settlement Interval between:

- (a) Forecast-Derived Energy; and
- (b) Metered Amounts plus Lost Output.

{SCE Comment: Intermittent only.}

- (a) Expected Energy; and
- (b) Metered Amounts plus Lost Output.

{SCE Comment: Baseload only.}

"Equitable Defense" means any bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain equitable remedies may be pending.

"ERR" has the meaning set forth in Section 10.02(b)(i).

"Event of Default" has the meaning set forth in Section 6.01.

"Event of Deficient Energy Deliveries" means any instance in which Seller fails to meet Seller's Energy Delivery Obligation as determined in accordance with Section 3.07(a)(ii).

"Event of Excess Deliveries" has the meaning set forth in Section 6.01(b)(vi).

{SCE Comment: Baseload only.}

"Excess Network Upgrade Costs" has the meaning set forth in Section 2.03(b).

“Expected Annual Net Energy Production” means the Generating Facility’s expected annual Qualified Amounts, as calculated in accordance with Section 1.01(j).

“Expected Energy” has the meaning set forth in the CAISO Tariff.

{SCE Comment: Baseload only.}

“Federal Investment Tax Credit” means investment tax credit under Section 48 of the Internal Revenue Code as in effect from time-to-time throughout the Delivery Term or any successor or other provision providing for a federal tax credit determined by reference to capital investment in equipment used to produce renewable electric energy from *[solar][geothermal]* energy resources for which Seller, as the owner of the Generating Facility, is eligible.

{SCE Comment: For solar or geothermal projects.}

“Federal Investment Tax Credit Legislation” means validly enacted federal legislation that either (i) extends the Federal Investment Tax Credit in its current form, or (ii) extends to owners of solar and geothermal generating facilities the applicability of a renewable energy tax credit determined by reference to capital investment in (A) the construction of the Generating Facility or (B) equipment used to produce renewable electric energy from solar or geothermal energy resources for which Seller, as the owner of the Generating Facility, is eligible.

{SCE Comment: For solar and geothermal projects.}

“Federal Production Tax Credit” means production tax credit under Section 45 of the Internal Revenue Code as in effect from time-to-time throughout the Delivery Term or any successor or other provision providing for a federal tax credit determined by reference to renewable electric energy produced from wind or other renewable energy resources for which Seller, as the owner of the Generating Facility, is eligible.

{SCE Comment: For Sellers that are eligible for Federal Production Tax Credit.}

“Federal Production Tax Credit Legislation” means validly enacted federal legislation that extends to owners of generating facilities that produce electric energy from wind or other renewable energy resources the applicability of a renewable energy tax credit determined by reference to wind or other renewable energy resources for which Seller, as the owner of the Generating Facility, is eligible.

{SCE Comment: For wind and other renewable generating facilities.}

“FERC” means the Federal Energy Regulatory Commission.

“Final Wind Report” means the unabridged and unredacted final report concerning the electric energy producing potential of the Site prepared by an independent engineer and which is used by Seller to obtain both:

- (a) Project financing or funding for the Generating Facility; and

- (b) The final design and binding price quote from the Wind Turbine manufacturer.
{SCE Comment: For Wind Only.}

“Financial Consolidation Requirement” has the meaning set forth in Section 10.19(a).

“Flexible RAR” means the flexible capacity requirements established for load-serving entities by the CPUC pursuant to the Resource Adequacy Rulings, the CAISO pursuant to the CAISO Tariff, or by any other Governmental Authority having jurisdiction.

“Force Majeure” means any occurrence that was not anticipated as of the Effective Date that:

- (a) In whole or in part:
 - (i) Delays a Party’s performance under this Agreement;
 - (ii) Causes a Party to be unable to perform its obligations; or
 - (iii) Prevents a Party from complying with or satisfying the conditions of this Agreement;
- (b) Is not within the control of that Party; and
- (c) The Party has been unable to overcome by the exercise of due diligence, including an act of God, flood, drought, earthquake, storm, fire, pestilence, lightning and other natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, terrorism, sabotage, strike or labor dispute, or actions or inactions of any Governmental Authority (including a change in Applicable Law but excluding Seller’s compliance obligations as set forth in Section 3.19), or curtailment or reduction in deliveries at the direction of a Transmission Provider or the CAISO (except as set forth below).

Force Majeure does not include:

- (d) The lack of wind, sun or other fuel source of an inherently intermittent nature;
- (e) Reductions in generation from the Generating Facility resulting from ordinary wear and tear, deferred maintenance, Operator error, or the failure of equipment or parts;
- (f) Full or partial curtailment or reduction in deliveries at the direction of a Transmission Provider or the CAISO when the basis of the curtailment or reduction in deliveries is congestion (including, but not limited to, congestion caused by outages, maintenance, construction or repair) arising in the ordinary course of operations of the Transmission Provider’s system or the CAISO-Controlled Grid, including congestion caused by outages or capacity reductions for maintenance, construction or repair;
- (g) Full or partial curtailment or reduction in deliveries at the direction of a Transmission Provider or the CAISO when the curtailment or reduction in

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- deliveries is caused by outages or capacity reductions as a result of maintenance, construction or repair;
- (h) Any delay in providing, or cancellation of, any Permit by the issuing Governmental Authority, except to the extent such delay or cancellation is the result of a force majeure claimed by the Governmental Authority;
 - (i) Any delay in providing, or cancellation of, interconnection service by a Transmission Provider, except to the extent such delay or cancellation is the result of a force majeure claimed by the Transmission Provider;
 - (j) Seller's ability to sell the Product at a price greater than that set forth in this Agreement;
 - (k) A failure of performance of any other entity, except if such failure was caused by an event that would otherwise qualify as a Force Majeure. *[; or*
 - (l) *Any invalidation of the CAISO Exemption and failure to comply with the CAISO Tariff due, in any part, to the Shared Facilities.* {SCE Comment: Bracketed language only applicable to projects that utilize a shared transformer.}

"Forecast" means an hourly forecast provided in accordance with Exhibit D of either:

- (a) The sum of the continuous electrical output ratings for *[Current Inverters] [Wind Turbines] [the generator(s)]* (in MWs) in the Generating Facility that are operational; or
- (b) The sum of electric energy (in MWh) expected to be generated by the Generating Facility

in accordance with SCE instructions.

"Forecast-Derived Energy" means the amount of energy in MWh that would have been generated by the Generating Facility, as determined by SCE after the applicable Settlement Interval(s) based upon (i) the Forecast of available capacity provided by Seller in accordance with this Agreement, (ii) the meteorological data for the Generating Facility during the applicable Settlement Interval(s), and (iii) the expected generating capabilities of the Generating Facility.
{SCE Comment: Intermittent only.}

"Forecasted Commercial Operation Date" means the date Seller anticipates, as of the Effective Date, will be the Commercial Operation Date, as set forth in Section 1.02.

"Forecasting" means the action of Seller in preparing and submitting the Forecasts to SCE.

"Forward Settlement Amount" means the Non-Defaulting Party's Costs and Losses, on the one hand, netted against its Gains, on the other. If the Non-Defaulting Party's Costs and Losses exceed its Gains, then the Forward Settlement Amount shall be an amount owing to the Non-

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Defaulting Party. If the Non-Defaulting Party's Gains exceed its Costs and Losses, then the Forward Settlement Amount shall be Zero dollars (\$0). The Forward Settlement Amount does not include consequential, incidental, punitive, exemplary or indirect or business interruption damages.

"Full Capacity Deliverability Status" or "FCDS" has the meaning set forth in the CAISO Tariff.

"GAAP" means United States generally accepted accounting principles in effect from time to time, consistently applied.

"Gains" means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement for what would have been the remaining Term of this Agreement, determined in a commercially reasonable manner.

Factors used in determining the economic benefit to a Party may include reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NYMEX), all of which should be calculated for the remaining Term of this Agreement, and includes the value of Green Attributes, Capacity Attributes and Resource Adequacy Benefits.

Only if the Non-Defaulting Party is unable, after using commercially reasonable efforts, to obtain third-party information to determine its Gains, *then* the Non-Defaulting Party may use information available to it internally suitable for this purpose under prudent industry practices.

"Generating Facility" means Seller's electric generating facility as more particularly described in Exhibit B, together with all materials, equipment systems, structures, features and improvements necessary to produce electric energy at the facility, *[and, with respect to the Shared Facilities, Seller's interests in such Shared Facilities]* excluding the Site, land rights and interests in land. *{SCE Comment: Bracketed language only applicable to projects that have Shared Facilities.}*

"Generating Facility Energy Yield Curve" means a table used to estimate the Generating Facility's Metered Amounts, in kWhs, as a function of the recorded plane of array insolation, in kWh per square meter, at the Site as described in Exhibit K. *{SCE Comment: Solar Photovoltaic only.}*

"Generating Facility Power Curve" means a table used to estimate the Generating Facility's Metered Amounts as a function of the recorded wind speed at the Site as described in Exhibit K. *{SCE Comment: Wind only.}*

"Generating Facility Power Curve" means a table used to estimate the Generating Facility's Metered Amounts as a function of the recorded direct normal insolation at the Site as described

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in Exhibit K.

{SCE Comment: Solar Thermal only.}

“Generation Management System” or “GMS” means the automated system, or its successor system, employed by SCE real time operations to remotely monitor and dispatch the Generating Facility.

“Generation Operations Center” or “GOC” means the location of SCE’s real time operations personnel.

“Generator Operator” means the entity that Operates the Generating Facility and performs the functions of supplying energy and interconnected operations services as described in the NERC Reliability Standards.

“Generator Operator Obligations” means the obligations of a Generator Operator as set forth in all applicable NERC Reliability Standards.

“Generator Owner” means an entity that owns the Generating Facility and has registered with NERC as the entity responsible for complying with those NERC Reliability Standards applicable to owners of generating units as set forth in the NERC Reliability Standards.

“Generator Owner Obligations” means the obligations of a Generator Owner as set forth in all applicable NERC Reliability Standards.

“Geothermal Reservoir Report” means a report obtained by Seller from an expert independent consulting firm qualified in geothermal reservoir assessment which assesses the geothermal potential at the Site.

{SCE Comment: Geothermal only.}

“Governmental Authority” means:

- (a) Any federal, state, local, municipal or other government;
- (b) Any governmental, regulatory or administrative agency, commission, or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; or
- (c) Any court or governmental tribunal.

“Governmental Charges” has the meaning as set forth in Section 9.02.

“Green Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and its avoided emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as:

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (1) Any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO) and other pollutants;
- (2) Any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere;¹
- (3) The reporting rights to these avoided emissions, such as Green Tag Reporting Rights.

Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser's discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of energy.

Green Attributes do not include:

- (i) Any energy, capacity, reliability or other power attributes from the Project,
- (ii) Production tax credits associated with the construction or operation of the Project and other financial incentives in the form of credits, reductions, or allowances associated with the Project that are applicable to a state or federal income taxation obligation,
- (iii) Fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or
- (iv) Emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits.

If the Project is a biomass or biogas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide SCE with sufficient Green Attributes to ensure that there are zero (0) net emissions associated with the production of electricity from the Project.

"Green Market Price" means the market price for energy and Green Attributes from an ERR.

¹ Avoided emissions may or may not have any value for GHG compliance purposes. Although avoided emissions are included in the list of Green Attributes, this inclusion does not create any right to use those avoided emissions to comply with any GHG regulatory program.

“Green-e® Energy” means the national certification program for renewable energy administered by the Center for Resource Solutions, as such program may be amended, supplemented or otherwise changed from time to time, and about which information can be found at:

<http://green-e.org>, or successor thereof.

{SCE Comment: Only applicable to GTSR Green Rate Projects only.}

“Green-e® Energy National Standard” means the most recent version of the standard in effect as of the Effective Date established by Green-e® Energy that defines eligibility criteria for renewable energy products, or successor version as such may be amended, supplemented or otherwise changed from time to time, and about which information can be found at

http://www.green-e.org/getcert_re_stan.shtml#standard, or successor thereof.

{SCE Comment: Only applicable to GTSR Green Rate Projects only.}

“Hydro Certification” has the meaning set forth in Section 3.25.

{SCE Comment: Hydro only.}

“Ideal Specific Work” has the meaning set forth in Exhibit K.

{SCE Comment: Geothermal only.}

“IFRS” means the International Financial Reporting Standards, as in effect from time to time, consistently applied.

“Indemnified Party” has the meaning set forth in Section 10.03(d).

“Indemnitor” has the meaning set forth in Section 10.03(d).

“Installed DC Rating” means the lesser of (i) the amount of direct current electric energy generating capacity, set forth in Section 1.01(i), that Seller commits to install at the Site, and (ii) the Demonstrated Installed DC Rating, expressed in kW_{PDC}.

{SCE Comment: For Solar Photovoltaic only.}

“Interconnection Affiliate” means the Seller’s Affiliate that is a party to the interconnection agreement and is recognized as the customer under the CAISO Tariff or has the Interconnection Queue Position. *{SCE Comment: Language applicable to projects that utilize Shared Facilities.}*

“Interconnection Point” means the location where the Generating Facility first interconnects with the existing electrical transmission or distribution system, as reported on the Generating Facility’s interconnection agreement with the Transmission Provider, as described in Section 1.01(e).

“Interconnection Queue Position” is the order of Seller’s valid request for interconnection relative to all other valid interconnection requests, as specified in Section 1.06.

RAP ID# [Number], [Seller's Name]

“Interconnection Study” means any of the studies defined in the CAISO’s Tariff or any Transmission Provider’s tariff that reflect methodology and costs to interconnect the Generating Facility to the Transmission Provider’s electric grid.

“Interest Payment” means a payment amount that results from the product of the following three factors:

- (a) the dollar amount on which an interest payment is based;
- (b) for any given month in which the payment is made, the average of the annual interest rates reported for all weekdays in such month opposite the caption “Federal funds (effective)” as set forth in the H.15 release, or any successor publication, published by the Board of Governors of the Federal Reserve System; and
- (c) the number of days in the calculation period divided by 360.

“Internal Revenue Code” means Title 26 of the United States Code.

“Inverter Block Unit” means each Current Inverter installed on the Site as part of the Generating Facility, along with the associated DC Collection Systems and Photovoltaic Modules connected to such Current Inverter.

“Inverter Block Unit Capacity” means, with respect to each Inverter Block Unit, the total rated electric alternating current energy generating capacity of such Inverter Block Unit, determined as the lesser of:

- (a) The manufacturer’s output rating of the Current Inverter included in such Inverter Block Unit, consistent with Prudent Electrical Practices and accepted industry standards, as indicated on the nameplate physically attached to such Current Inverter; *provided*, if such output rating is not indicated in kW or MW on the nameplate physically attached to such Current Inverter, then such output rating in kW or MW will be deemed to be equal to the maximum continuous out power in kilovolt-amperes (kVA) or megavolt-amperes (MVA) indicated on the nameplate physically attached to such Current Inverter for purposes of this calculation; *provided further*, that if more than one Current Inverter output rating is provided, whether in kW, MW, kVA or MVA, the lowest of these shall be deemed to be the manufacturer’s rating of such Current Inverter; or
- (b) The sum of the manufacturer’s nameplate ratings of all Photovoltaic Modules included in such Inverter Block Unit, consistent with Prudent Electrical Practices and accepted industry standards, as indicated on the nameplates physically attached to such individual Photovoltaic Modules
{SCE Comment: Solar Photovoltaic only.}

“JAMS” has the meaning set forth in Article Twelve.

The contents of this document are subject to restrictions on disclosure as set forth herein.

“kW” means a kilowatt of alternating current electric energy generating capacity.

“kWh” means a kilowatt-hour of alternating current electric energy.

“kW_{PDC}” means peak DC power.

{SCE Comment: Solar Photovoltaic only.}

“Lease” means one or more agreements whereby Seller leases the real property of the Site described in Section 1.01(b) from a third party, the term of which lease begins on or before the commencement of construction of the Generating Facility and extends at least through the last day of the Term.

“Lender” means any financial institutions that provide(s) development, bridge, construction, permanent debt or tax equity financing or refinancing for the Generating Facility to Seller.

“Letter of Credit” means an irrevocable, nontransferable standby letter of credit, substantially in the form of Exhibit L and acceptable to SCE, provided by Seller from an issuer acceptable to SCE that is either a U.S. branch of a commercial bank with such bank having total assets of at least ten billion U.S. dollars (US\$10,000,000.00) and a Credit Rating of at least “A-” from S&P or “A3” from Moody’s. If such bank is rated by more than one Ratings Agency and the ratings are at different levels, the lowest rating shall be the Credit Rating for this purpose. Seller must bear the costs of all Letters of Credit.

“Letter of Credit Default” means with respect to a Letter of Credit, the occurrence of any of the following events:

- (a) The issuer of a Letter of Credit fails to maintain a Credit Rating of at least “A-” from S&P or “A3” from Moody’s as required in the definition of “Letter of Credit”;
- (b) The issuer of the Letter of Credit fails to comply with or perform its obligations under such Letter of Credit;
- (c) The issuer of the Letter of Credit disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, the Letter of Credit;
- (d) The Letter of Credit fails or ceases to be in full force and effect at any time;
- (e) Seller fails to provide an extended or replacement Letter of Credit prior to twenty (20) Business Days before the Letter of Credit expires or terminates; or
- (f) The issuer of the Letter of Credit becomes Bankrupt;

provided, no Letter of Credit Default will occur or be continuing in any event with respect to a Letter of Credit after the time such Letter of Credit is required to be canceled or returned to a Party or issuer in accordance with the terms of this Agreement.

“Local Capacity Area” has the meaning set forth in the CAISO Tariff.

“Local RAR” means the local Resource Adequacy Requirements established for load-serving entities by the CPUC pursuant to the Resource Adequacy Rulings, the CAISO pursuant to the CAISO Tariff, or by any other Governmental Authority having jurisdiction. “Local RAR” may also be known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, or local capacity requirement in other regulatory proceedings or legislative actions.

“Locational Marginal Price” or “LMP” has the meaning set forth in the CAISO Tariff.

“Losses” means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement for the remaining Term of this Agreement, determined in a commercially reasonable manner.

Factors used in determining economic loss to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NYMEX), all of which should be calculated for the remaining Term of this Agreement and must include the value of Green Attributes, Capacity Attributes and Resource Adequacy Benefits.

Only if the Non-Defaulting Party is unable, after using commercially reasonable efforts, to obtain third-party information to determine the loss of economic benefits, then the Non-Defaulting Party may use information available to it internally suitable for these purposes in accordance with prudent industry practices.

“Lost Output” means the reduction in Qualified Amounts over the relevant measurement period that the Generating Facility was available to produce and could reasonably have been expected to deliver, based upon the calculation method set forth in Exhibit K, but was not delivered due to a Lost Output Event.

“Lost Output Event” means any of the following occurrences which cause Seller to be unable to deliver energy:

- (a) Force Majeure;
- (b) An Event of Default where SCE is the Defaulting Party;
- (c) A curtailment or reduction of deliveries in accordance with Section 3.12(g) or as otherwise ordered or caused by the CAISO, or SCE acting as a Transmission Provider (including without limitation a curtailment or reduction that does not constitute a Force Majeure as provided in subparagraph (f) or (h) of the definition of Force Majeure); or
- (d) An Emergency, to the extent not already covered in item (c) above.

The contents of this document are subject to restrictions on disclosure as set forth herein.

RAP ID# [Number], [Seller's Name]

“Lost Output Report” means the monthly report of Lost Output in the form of the worksheet from the Lost Output Workbook prepared in accordance with the procedures set forth in Section 3.21 and Exhibit K.

“Lost Output Workbook” has the meaning set forth in Exhibit K.

“Material Permits” means all permits required for Commercial Operation of the Generating Facility, as set forth on Exhibit G.

“Mediator” has the meaning set forth in Article Twelve.

“Meteorological Equipment” means the instruments and equipment that meet those specifications set forth in Exhibit P, as may be modified by SCE from time to time to reflect the CAISO’s PIRP/EIRP protocol.

{SCE Comment: Intermittent only.}

“Metered Amounts” means the electric energy produced by the Generating Facility, expressed in kWh, as recorded by the CAISO Approved Meter(s), or Check Meter(s), as applicable.

“Milestone Schedule” means Seller’s schedule to develop the Generating Facility as set forth in Exhibit G, including any revisions thereto in accordance with this Agreement.

“Monthly Profile” has the meaning set forth in Exhibit K.

{SCE Comment: Biomass only.}

“Moody’s” means Moody’s Investor Services, Inc.

“Multiplier” has the meaning set forth in Section 3.02.

{SCE Comment: Only Generating Facilities providing guaranteed delivery of Resource Adequacy Benefits.}

“MW” means a megawatt (or 1,000 kilowatts) of alternating current electric energy generating capacity.

“MWh” means a megawatt-hour (or 1,000 kilowatt-hours) of alternating current electric energy.

“Negative LMP” means, in any Settlement Interval, the LMP at the Generating Facility’s PNode is less than Zero dollars (\$0).

“Negative LMP Costs” has the meaning set forth in Section 1.05(c)(i).

“NERC” means the North American Electric Reliability Corporation, or any successor thereto.

The contents of this document are subject to restrictions on disclosure as set forth herein.

“NERC Reliability Standards” means those reliability standards applicable to the Generating Facility, or to the Generator Owner or the Generator Operator with respect to the Generating Facility, that are adopted by NERC and approved by the applicable regulatory authorities.

“NERC Standards Non-Compliance Penalties” means any and all monetary fines, penalties, damages, interest or assessments by the NERC, CAISO, WECC, a Governmental Authority or any entity acting at the direction of a Governmental Authority arising from or relating to a failure to perform the obligations of Generator Operator or Generator Owner as set forth in the NERC Reliability Standards.

“Net Qualifying Capacity” has the meaning set forth in the CAISO Tariff.

“Network Upgrades Cap” has the meaning set forth in Section 2.03(b)(i)(1).

“Non-Availability Charges” has the meaning set forth in the CAISO Tariff.

“Non-Defaulting Party” has the meaning set forth in Section 6.02.

“Non-Disclosure Agreement” shall mean that certain Non-Disclosure Agreement between the Parties dated as of _____, 20__.

“Notice” means notices, requests, statements or payments provided in accordance with Section 10.08 and Exhibit C.

“OMAR” means the Operational Metering Analysis and Reporting System operated and maintained by the CAISO as the repository of settlement quality meter data or its successor.

“Operate”, “Operated”, “Operating” or “Operation” means to provide (or the provision of) all the operation, engineering, purchasing, repair, supervision, training, inspection, testing, protection, use, management, improvement, replacement, refurbishment, retirement, and maintenance activities associated with operating the Generating Facility in accordance with Prudent Electrical Practices.

“Operating Procedures” has the meaning as set forth in the CAISO Tariff.

“Other Generating Facility(ies)” means the electric generating facility(ies), other than the Generating Facility, utilizing the Shared Facilities to enable delivery of energy from each such other generating facility to Seller’s Point of Interconnection, together with all materials, equipment systems, structures, features and improvements necessary to produce electric energy at each such other generating facility, but (i) with respect to the Shared Facilities, excluding Seller’s interests therein and (ii) excluding the real property on which each such other generating facility is, or will be located, land rights and interests in land.

“Other Seller(s)” means the seller(s) of energy from an Other Generating Facility.

{SCE Comment: Language applicable to projects that utilize Shared Facilities.}

“Outage Schedule” has the meaning set forth in Section 3.15.

“Paid Curtailed Product” means the CP for which SCE is obligated to pay Seller pursuant to Section 4.01(c).

“Participating Intermittent Resource” means an intermittent resource generating facility that is certified, and remains certified, under PIRP as set forth in the CAISO Tariff.

“Participating Intermittent Resource Program” or “PIRP” means the CAISO’s intermittent resource program initially established pursuant to Amendment No. 42 of the CAISO Tariff in Docket No. ER02-922-000 or any successor program that SCE determines accomplishes a similar purpose.

{SCE Comment: Intermittent only.}

“Party” or “Parties” have the meaning set forth in the Preamble.

“Payment Invoices” are invoices issued by SCE to Seller detailing amounts owed by SCE to Seller or by Seller to SCE for energy deliveries, CAISO Revenues, CAISO Costs, CAISO Sanctions, SCE Penalties and other charges and adjustments as may be owed by the Parties, in accordance with Exhibit E.

“Performance Assurance” means the collateral required under Section 8.02.

“Performance Tolerance Band” has the meaning set forth in Exhibit N.

“Permit Approval” means approval by the relevant regulatory agencies of any Permit and shall be deemed obtained upon the issuance of such Permit, and shall not be invalidated by the pendency of an appeal or other post-issuance challenge to the issuance of the Permit.

“Permits” means all applications, approvals, authorizations, consents, filings, licenses, orders, permits or similar requirements imposed by any Governmental Authority, or the CAISO, in order to develop, construct, Operate, maintain, improve, refurbish and retire the Generating Facility or to Forecast or deliver the electric energy produced by the Generating Facility to SCE.

“Photovoltaic Module” means the individual module or component that produces DC electric energy from sun light.

“Photovoltaic Module DC Rating” means, for each Photovoltaic Module installed or to be installed at the Site, the number (expressed in kW_{PDC}) stated on the nameplate affixed thereto representing the manufacturer’s maximum (at “peak” sunlight) DC power rating at the standard test condition (“P_{mp}” or Power maximum at peak).

{SCE Comment: For Solar Photovoltaic.}

“PNode” has the meaning set forth in the CAISO Tariff.

“Portfolio” means a single portfolio of electrical energy generating assets consisting of the Generating Facility and the Other Generating Facility(ies), that is pledged as collateral security in connection with a financing thereof. *{SCE Comment: Language applicable to projects that utilize Shared Facilities.}*

“Product” has the meaning set forth in Section 1.01(d).

“Product Payment” has the meaning set forth in Exhibit E.

“Product Payment Allocation Factor” means the product payment allocation factors set forth in Exhibit I.

“Product Price” has the meaning set forth in Section 1.05.

“Product Replacement Damage Amount” has the meaning set forth in Section 3.07(b).

“Project” means the Generating Facility.

“Project Security” means Development Security or Performance Assurance.

“Proposal” means the proposal Seller submitted to SCE in response to SCE’s request for proposals to supply energy and associated Green Attributes, Capacity Attributes and Resource Adequacy Benefits from eligible renewable resources.

“Prudent Electrical Practices” means those practices, methods and acts that would be implemented and followed by prudent operators of electric energy generating facilities in the Western United States, similar to the Generating Facility, during the relevant time period, which practices, methods and acts, in the exercise of prudent and responsible professional judgment in the light of the facts known or that should reasonably have been known at the time the decision was made, could reasonably have been expected to accomplish the desired result consistent with good business practices, reliability and safety.

Prudent Electrical Practices shall include, at a minimum, those professionally responsible practices, methods and acts described in the preceding sentence that comply with manufacturers’ warranties, restrictions in this Agreement, and the requirements of Governmental Authorities, WECC standards, the CAISO and Applicable Laws.

Prudent Electrical Practices also includes taking reasonable steps to ensure that:

- (a) Equipment, materials, resources, and supplies, including spare parts inventories, are available to meet the Generating Facility’s needs;
- (b) Sufficient Operating personnel are available at all times and are adequately experienced and trained and licensed as necessary to Operate the Generating Facility properly and efficiently, and are capable of responding to reasonably foreseeable emergency conditions at the Generating Facility and Emergencies whether caused by events on or off the Site;

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- (c) Preventive, routine, and non-routine maintenance and repairs are performed on a basis that ensures reliable, long term and safe Operation of the Generating Facility, and are performed by knowledgeable, trained, and experienced personnel utilizing proper equipment and tools;
- (d) Appropriate monitoring and testing are performed to ensure equipment is functioning as designed;
- (e) Equipment is not Operated in a reckless manner, in violation of manufacturer's guidelines or in a manner unsafe to workers, the general public, or the Transmission Provider's electric system or contrary to environmental laws, permits or regulations or without regard to defined limitations such as, flood conditions, safety inspection requirements, operating voltage, current, volt ampere reactive (VAR) loading, frequency, rotational speed, polarity, synchronization, and control system limits; and
- (f) Equipment and components are designed and manufactured to meet or exceed the standard of durability that is generally used for electric energy generating facilities operating in the Western United States and will function properly over the full range of ambient temperature and weather conditions reasonably expected to occur at the Site and under both normal and emergency conditions.

"Qualified Amounts" means the Metered Amounts, expressed in kWh, that qualify as renewable power under the requirements of the California Renewables Portfolio Standard, or which do not so qualify solely due to a change in RPS Legislation occurring after the Effective Date, subject to Seller's compliance with Section 1.07.

"Qualifying Capacity" means the maximum amount of Resource Adequacy Benefits a generating facility could provide before an assessment of its Net Qualifying Capacity, as determined pursuant to the relevant methodology established by the CPUC. For purposes of determining "Qualifying Capacity", it shall be assumed that the Generating Facility is fully deliverable.

{SCE Comment: Only Generating Facilities providing guaranteed delivery of Resource Adequacy Benefits.}

"Qualified Reporting Entity" has the meaning set forth in the WREGIS Operating Rules, as applicable to the Generating Facility as the Registered Generating Unit.

"RA Deficit Payments" has the meaning set forth in Section 3.02.

{SCE Comment: Only Generating Facilities providing guaranteed delivery of Resource Adequacy Benefits.}

"RAP ID" means the contract identification number set forth on the title page to this Agreement.

"Ratings Agency" means any of S&P and Moody's (collectively, the "Ratings Agencies").

“Real-Time Availability” means Seller’s cumulative available capacity of the Generating Facility on a real-time basis.

“Real-Time Market” has the meaning set forth in the CAISO Tariff.

“Registered Generating Unit” has the meaning set forth in WREGIS Operating Rules, as applicable to the Generating Facility.

“Renewable Energy Credit” or “REC” has the meaning set forth in CPUC Decision D.08-08-028, as such definition may be modified by the CPUC or Applicable Law from time to time.

“Required Material” means any permit, license, application, certification, design, specification, program, agreement, instrument, equipment, device, mechanism, or any other item in connection with the Generating Facility to be reviewed or approved by SCE or on SCE’s behalf, or requested or required of Seller by SCE or on SCE’s behalf, under this Agreement.

“Resource Adequacy Benefits” means the rights and privileges attached to the Generating Facility that satisfy any entity’s Resource Adequacy Requirements, as those obligations are set forth in any Resource Adequacy Rulings and shall include any local, zonal or otherwise locational attributes associated with the Generating Facility.

“Resource Adequacy Requirements” or “RAR” means the resource adequacy requirements applicable to a person or entity pursuant to the Resource Adequacy Rulings, the CAISO pursuant to the CAISO Tariff, or by any other Governmental Authority having jurisdiction.

“Resource Adequacy Rulings” means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024 and any other existing or subsequent ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, as such decisions, rulings, laws, rules or regulations may be amended or modified from time-to-time throughout the Delivery Term.

“Responsible Officer” means the chief financial officer, treasurer or any assistant treasurer of a Party or any employee of a Party designated by any of the foregoing.

“Restricted Period” has the meaning set forth in Section 2.04(b).

“RPS” means the State of California Renewable Portfolio Standard Program.

“RPS Legislation” means the State of California Renewable Portfolio Standard Program, as codified at California Public Utilities Code Section 399.11, *et seq.*

“S&P” means the Standard & Poor’s Financial Services LLC.

“SC Set-up Fee” has the meaning set forth in Section 3.13(a)(iii).

“SCE” has the meaning set forth in the Preamble.

“SCE Penalty” means the amount charged to Seller by SCE, in accordance with Exhibit N, for hours in a calendar month when Seller does not accurately provide availability information as set forth in Exhibit D.

{SCE Comment: For Intermittent only.}

“Schedule,” “Scheduled” or “Scheduling” means the action of SCE in submitting Bids to the CAISO and receiving all CAISO Markets results from the CAISO.

“Scheduling Coordinator” or “SC” means an entity certified by the CAISO for the purposes of undertaking the functions specified by the CAISO Tariff.

“SEC” means the Securities and Exchange Commission.

“Security Interest” has the meaning set forth in Section 8.04.

“Seller” has the meaning set forth in the Preamble.

“Seller’s Debt” means, without duplication, each of the following:

- (a) All indebtedness of Seller for borrowed money;
- (b) All obligations of Seller for the deferred purchase price of property or services which purchase price is due more than six months after the date of placing such property in service or taking delivery or title thereto or the completion of such services (other than trade payables not overdue by more than ninety (90) days incurred in the ordinary course of Seller’s business);
- (c) All obligations of Seller evidenced by notes, bonds, debentures, Disqualified Stock or other similar instruments;
- (d) All obligations of Seller created or arising under any conditional sale or other title retention agreement with respect to property acquired by Seller (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property);
- (e) All monetary obligations of Seller under:
 - (i) A lease of any property (whether real, personal or mixed) by Seller as lessee that, in conformity with GAAP, is accounted for as a capital lease on the balance sheet of Seller;
 - (ii) A so-called synthetic, off-balance sheet or tax retention lease; or
 - (iii) An agreement for the use or possession of property creating obligations which do not appear on the balance sheet of Seller but which, upon the

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insolvency or bankruptcy of Seller, would be characterized as indebtedness of Seller (without regard to accounting treatment);

- (f) All obligations, contingent or otherwise, of Seller under acceptance, letter of guaranty, letter of credit or similar facilities;
- (g) All obligations of Seller with respect to any redeemable equity interests in Seller, including in the case of preferred stock at the greater of the voluntary or involuntary liquidation preference plus accrued and unpaid dividends;
- (h) All obligations of Seller with respect to any swaps, caps or collar agreements or similar arrangements to hedge against fluctuations in interest rates or currency exchange rates or the exchange of nominal interest obligations, either generally or under specific contingencies, in each case, valued at the aggregate net mark-to-market value;
- (i) All indebtedness of others referred to in clauses (a) through (h) above guaranteed by Seller, or in effect guaranteed by Seller through an agreement:
 - (i) To pay or purchase such indebtedness or to advance or supply funds for the payment or purchase of such indebtedness;
 - (ii) To purchase, sell or lease (as lessee or lessor) property, or to purchase or sell services, primarily for the purpose of enabling the debtor to make payment of the indebtedness or to assure the holder of such indebtedness against loss;
 - (iii) To supply funds to or invest in the debtor (including any agreement to pay for property or services irrespective of whether such property is received or such services are rendered); or
 - (iv) Otherwise to assure a creditor against loss; and
- (j) Without duplication of the foregoing, all indebtedness referred to in clauses (a) through (i) above secured by any lien on property (including accounts and contract rights) owned by Seller.

The outstanding amount of indebtedness as described above at any date will be the outstanding balance at such date of all unconditional obligations as described above and, with respect to contingent obligations as described above, the maximum liability upon the occurrence of the contingency giving rise to the obligation.

Notwithstanding the foregoing, the term “Seller’s Debt” as used herein does not include Seller’s obligations under this Agreement and the Lease (provided that such Lease does not constitute an obligation of Seller described in clause (e) of the first sentence of this definition).

“Seller’s Energy Delivery Obligation” has the meaning set forth in Section 3.07(a)(i).

“Seller’s Ultimate Parent” shall mean [] or any successor entity thereto who maintains a direct or indirect majority ownership in Seller. *{SCE Comment: For projects that utilize Shared Facilities.}*

“Settlement Interval” has the meaning set forth in the CAISO Tariff.

“Shared Facilities” means the gen-tie lines, transformers, substations, or other equipment, permits, contract rights, and other assets and property (real or personal), in each case, as necessary to enable delivery of energy from Seller’s electric Generating Facility (which is excluded from Shared Facilities) to the Point of Interconnection, including the interconnection agreement itself, that are used in common with Other Seller(s), as applicable.

“Shared Facilities Agreement(s)” has the meaning set forth in Section 3.05(a).
{SCE Comment: Language applicable to projects that utilize Shared Facilities.}

“Shared Facilities Area” means the area of real property upon which the Shared Facilities are or will be located, as more particularly described in Exhibit B.

“Shared Facilities Control” means that Seller either (i) owns an interest in the Shared Facilities Area (including in the form of an undivided co-tenancy (or similar shared) ownership interest in the Shared Facilities Area under the Shared Facilities Agreement), (ii) is the lessee of the Shared Facilities Area, or (iii) is the holder of a franchise agreement, easement or right-of-way grant or similar instrument with respect to the Shared Facilities Area.

“Shared Transformer” means the transformer shared by Seller and Other Seller as part of the Shared Facilities, which steps the voltage from [] kV to [] kV. *{SCE Comment: Language only applicable to projects that utilize a shared transformer.}*

“Site” means the real property on which the Generating Facility is, or will be located, as further described in Section 1.01(b) and Exhibit B *[, but excluding (a) that portion on which the Other Generating Facility is, or will be, located, as further described in Exhibit B, and (b) the Shared Facilities Area]. {SCE Comment: Bracketed language only applicable to projects that utilize Shared Facilities.}*

“Site Control” means that Seller shall:

- (a) Own the Site;
- (b) Be the lessee of the Site under a Lease;
- (c) Be the holder of a right-of-way grant or similar instrument with respect to the Site; or
- (d) Be the managing partner or other person or entity authorized to act in all matters relating to the control and Operation of the Site and the Generating Facility

; provided that, with respect to the period beginning on the Effective Date and ending on the day prior to the Commercial Operation Date, Seller may also be deemed to have "Site Control" if Seller has an unconditional option, at Seller's sole discretion, to purchase or lease the Site.

"Solar Generating Unit" means the solar generator(s) installed on the Site as part of the Generating Facility including any replacements or substitutes therefore.

{SCE Comment: Solar Thermal only.}

"Solar Resource Evaluation Report" means a final report concerning the electric energy producing potential of the Site prepared by an independent engineer which assesses the solar resource potential at the Site.

{SCE Comment: Solar only.}

"Station Use" means:

- (a) The electric energy produced by the Generating Facility that is used within the Generating Facility to power the lights, motors, control systems and other electrical loads that are necessary for Operation; and
- (b) The electric energy produced by the Generating Facility that is consumed within the Generating Facility's electric energy distribution system as losses.

"Successor" has the meaning set forth in Section 8.09(b)(iii).

"Supervisory Control and Data Acquisition" or "SCADA" has the meaning set forth in the CAISO Tariff.

"Supplemental Lost Output" has the meaning set forth in Section 3.21.

"Supplemental Lost Output Report" has the meaning set forth in Section 3.21.

"Telemetry System" means a system of electronic components that interconnects the Generating Facility, GMS and the CAISO as set forth in Section 3.08(e).

"Term" means the term of this Agreement as set forth in Section 1.04.

"Term Year" means a twelve (12) month period beginning on the first day of the calendar month following the Commercial Operation Date and each successive twelve (12) month period thereafter.

"Termination Payment" means the sum of all amounts owed by the Defaulting Party to the Non-Defaulting Party under this Agreement, less any amounts owed by the Non-Defaulting Party to the Defaulting Party determined as of the Early Termination Date. The Forward Settlement Amount is part of and included in the Termination Payment.

“Theoretical Maximum Output” has the meaning set forth in Exhibit K.

{SCE Comment: Geothermal only.}

“TOD Period(s)” means the time of delivery period(s) set forth in Exhibit I.

“TOD Period Product Payment” means a portion of a Product Payment based upon the time of delivery of Product and calculated in accordance with the formula set forth in Section 2.02 of Exhibit E.

“Trading Day” has the meaning set forth in the CAISO Tariff.

“Transmission Provider” means any entity or entities responsible for the interconnection of the Generating Facility with a Control Area or transmitting the Metered Amounts on behalf of Seller from the Generating Facility to the Delivery Point.

“Unincluded Capacity” has the meaning set forth in Section 3.06(b).

“Utilization Factor” has the meaning set forth in Exhibit K.

{SCE Comment: Geothermal only.}

“Web Client” means a web-based system approved by SCE.

“WECC” means the Western Electricity Coordinating Council, the regional reliability council for the Western United States, Northwestern Mexico and Southwestern Canada.

“Wind Turbines” means the wind turbine generators installed on the Site as part of the Generating Facility including any replacements or substitutes therefore.

{SCE Comment: Wind only.}

“WMDVBE” means women, minority, and disabled veteran business enterprise, as more particularly set forth in CPUC General Order 156.

“WREGIS” has the meaning set forth in Section 3.01(d)(iv).

“WREGIS Certificate(s)” has the same meaning as “Certificate” as defined by WREGIS in the WREGIS Operating Rules.

“WREGIS Operating Rules” means the rules published by the Western Electricity Coordination Council for the rules and operations of WREGIS.

*** End of EXHIBIT A ***

EXHIBIT B*Generating Facility and Site Description*

1. Generating Facility Description.

{SCE Comment: Seller must provide description of the Generating Facility equipment, systems, control systems and features, including a site plan drawing showing the general arrangement of the Generating Facility, and a single-line diagram(s) showing electrical arrangement of generating equipment, inverters, unit/service transformers, CAISO-Controlled Grid interconnection, interconnection transformer(s), metering, breakers, and disconnects (as applicable). To the extent applicable, Seller must include the designation system by which Seller identifies individual generating units.}

Name and Address of Generating Facility:

[Project Name]
[Address]
[City, State Zip Code]

Latitude and Longitude:

_____ ° Lat, _____ ° Long.

For Solar:

Technology: *[specify fixed tilt OR single-axis tracking OR dual-axis tracking AND monocrystalline silicon OR polycrystalline silicon OR thin film].*

Item	Manufacturer	Model Number	Rating	Quantity	Total Rating
Photovoltaic Modules			<i>[Rating, in W DC, of a single module]</i>		
Inverter			<i>[include temperature specific to rating, if applicable. e.g. 800kVA @ 50°C]</i>		
Transformer	<i>[optional]</i>	<i>[optional]</i>	<i>[include both kVA rating and high/low]</i>		

The contents of this document are subject to restrictions on disclosure as set forth herein.

RAP ID# [Number], [Seller's Name]

			voltage rating]		
Primary Step Up Transformer [if applicable]	[optional]	[optional]	[include both kVA rating and high/low voltage rating]		

[Unless stated otherwise, all fields in the table are required.]

For Wind:

Technology: Wind

Item	Manufacturer	Model Number	Hub Height	Rating	Quantity	Total Rating
Wind Turbine Generator				[Rating, in kW AC, of a single WTG]		
Medium Voltage Transformer	[optional]	[optional]		[include both kVA rating and high/low voltage rating]		
Primary Step Up Transformer [if applicable]	[optional]	[optional]		[include both kVA rating and high/low voltage rating]		

[Unless stated otherwise, all fields in the table are required.]

For Geothermal:

Technology: [specify Single Flash, Dual Flash, Direct Steam or Binary] Geothermal

Cooling Tower: [specify Evaporative or Dry Tower]

Item	Manufacturer	Model Number	Rating	Quantity	Total Rating
Turbine/Generator Set		[optional]			
Primary Step Up Transformer	[optional]	[optional]	[include both kVA rating and high/low]		

The contents of this document are subject to restrictions on disclosure as set forth herein.

RAP ID# [Number], [Seller's Name]

			<i>voltage rating</i>		
--	--	--	---------------------------	--	--

*[Unless stated otherwise, all fields in the table are required.]*Description of Shared Facilities: *[if applicable]*

2. Site Description.

{SCE Comment: Seller must provide a legal description of the site, including a site map.}

*** End of EXHIBIT B ***

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT C

Notice List

<i>[SELLER'S NAME]</i> ("Seller")	SOUTHERN CALIFORNIA EDISON COMPANY ("SCE")
All Notices are deemed provided in accordance with Section 10.08 if made to the address and facsimile numbers provided below:	Unless otherwise specified, all Notices are deemed provided in accordance with Section 10.08 if made to the Contract Sponsor at the address or facsimile number provided below:
Contract Sponsor: Attn: Street: City: Phone: Facsimile:	Contract Sponsor: Attn: Vice President of Energy Procurement & Management Street: 2244 Walnut Grove Avenue City: Rosemead, California 91770 Phone: 626-302-4023 Facsimile: 626-302-9622
Reference Numbers: Duns: Federal Tax ID Number:	Reference Numbers: Duns: 006908818 Federal Tax ID Number: 95-1240335
Contract Administration: Attn: Phone: Facsimile:	Contract Administration: Attn: Director, Contract Management and Administration Phone: 626-302-3126 Facsimile: 626-302-8168 Email: Energycontracts@sce.com
Forecasting: Attn: Control Room Phone: Facsimile:	Generation Operations Center: Attn: Preschedule Operations Phone: 626-307-4487 or 626-307-4420 Facsimile: 626-302-3409 E-mail: presched@sce.com
Day-Ahead Forecasting: Phone:	Day-Ahead Scheduling: Attn: Manager of Day-Ahead Operations Attn: Scheduling Desk Phone: 626-307-4425 or 626-307-4420 Facsimile: 626-307-4413 E-mail: presched@sce.com

The contents of this document are subject to restrictions on disclosure as set forth herein.

[SELLER'S NAME] ("Seller")	SOUTHERN CALIFORNIA EDISON COMPANY ("SCE")
Real-Time Forecasting: Phone:	Real-Time Scheduling: Attn: Manager of Real-Time Operations Attn: Operations Desk Phone: 626-307-4405 or 626-307-4453 Facsimile: 626-307-4416 E-mail: realtime@sce.com
	Short Term Planning:
Payment Invoices: Attn: Phone: Facsimile: E-mail:	Payment Invoices: Attn: Power Procurement - S&OS Phone: 626-302-3277 or 626-302-8908 Facsimile: 626-302-3276 E-mail:PPFDPowerSettle@sce.com
CAISO Costs and CAISO Sanctions and SCE Penalties: Attn: Phone: Facsimile: E-mail:	CAISO Costs, CAISO Sanctions and SCE Penalties: Attn: Power Procurement - S&OS Phone: 626-302-3277 or 626-302-8908 Facsimile: 626-302-3276 E-mail:PPFDPowerSettle@sce.com
Payments: Attn: Phone: Facsimile: E-mail:	Payments: Attn: Power Procurement S&OS Phone: 626-302-3277 or 626-302-8908 Facsimile: 626-302-3276 E-mail:PPFDPowerSettle@sce.com
Wire Transfer: BNK: ABA: ACCT:	Wire Transfer: BNK: JP Morgan Chase Bank ABA: 021000021 ACCT: 323-394434

[SELLER'S NAME] ("Seller")	SOUTHERN CALIFORNIA EDISON COMPANY ("SCE")
Credit and Collections: Attn: Phone: Facsimile: E-mail:	Credit Risk: Attn: Manager of Credit Risk Phone: 626-302-3672 Collateral: Southern California Edison Company Attn: Manager of Risk Operations & Collateral Management 2244 Walnut Grove Avenue, GO1 Quad 2A Rosemead, CA 91770 Phone: (626) 302-3383 Email: scecollateral@sce.com
With additional Notices of an Event of Default or Potential Event of Default to: Attn: Phone: Facsimile: E-mail:	With additional Notices of an Event of Default or Potential Event of Default to: Attn: SCE Law Department Power Procurement Section Email: PPLegalNotice@sce.com
Lender: Attn: Phone: Facsimile: E-mail:	

*** End of EXHIBIT C ***

EXHIBIT D*Forecasting and Scheduling Requirements and Procedures*1. Introduction.

The Parties shall abide by the Forecasting and Scheduling requirements and procedures described below and shall agree upon reasonable changes to these requirements and procedures from time-to-time, as necessary to:

- (a) Comply with CAISO Tariff;
- (b) Accommodate changes to their respective generation technology and organizational structure; and
- (c) Address changes in the operating and Scheduling procedures of both SCE and the CAISO, including but not limited to, automated forecast and outage submissions.

2. Seller's Forecasting Requirements.

Seller must meet all of the following requirements for Forecasting as specified below.

- (a) No later than thirty (30) days before any day designated for Commercial Operation, Seller shall provide SCE, via the Web Client, with a 30-day, hourly Forecast of either or both:
 - (i) Capacity, in MW; or
 - (ii) Electric energy, in MWhas directed by SCE, for the thirty (30) day period commencing on the Commercial Operation Date.
- (b) If, after submitting the Forecast pursuant to Item 2(a), Seller learns that Commercial Operation will occur on a date and time other than that reflected on the Forecast, Seller shall provide an updated Forecast reflecting the new Commercial Operation Date at the earliest practicable time but no later than 5:00 p.m. Pacific Prevailing Time ("PPT") on the Wednesday before the revised Commercial Operation Date, if Seller has learned of the new Commercial Operation Date by that time, but in no event less than three (3) Business Days before the actual Commercial Operation Date.
- (c) If the Web Client becomes unavailable, Seller shall provide SCE with the Forecast by e-mailing SCE.
- (d) The Forecast, and any updated Forecasts provided pursuant to this Item 2, must:
 - (i) Not include any anticipated or expected electric energy losses after the CAISO Approved Meter or Check Meter; and

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (ii) Limit hour-to-hour Forecast changes to no less than two hundred fifty (250) kWh or 0.25 MW, as applicable, during any period when the Web Client is unavailable. Seller shall have no restriction on hour-to-hour Forecast changes when the Web Client is available.
- (e) Commencing on or before 5:00 p.m. PPT of the Wednesday before the first week covered by the Forecast provided pursuant to Item 2(a) above and on or before 5:00 p.m. PPT every Wednesday thereafter until the end of the Delivery Term, Seller shall update the Forecast for the thirty (30) day period commencing on the Sunday following the weekly Wednesday Forecast update submission. Seller shall use the Web Client, if available, to supply this weekly update or, if the Web Client is not available, Seller shall provide SCE with the weekly Forecast update by e-mailing SCE.
- (f) Forecasting Electric Energy.

If Seller is Forecasting electric energy, in accordance with SCE's instructions, and Seller learns of any change in the total electrical energy output of the Generating Facility for a period covered by the most recent Forecast update resulting from any cause, including an unplanned outage, before the time that the next weekly update of the Forecast is due which results in variance in expected energy in any hour of plus (+) or minus (-) three percent (3%) from the energy reported in the most recent Forecast update, Seller shall provide an updated Forecast to SCE. This updated Forecast must be submitted to SCE by no later than:

 - (i) 5:00 a.m. PPT on the day before any day impacted by the change, if the change is known to Seller at that time. If the Web Client is not available, Seller shall e-mail these changes to presched@sce.com and immediately follow up with a phone call to SCE's Day-Ahead Scheduling Desk in accordance with Exhibit C;
 - (ii) Thirty (30) minutes before the commencement of any hour impacted by the change, if the change is known to Seller at that time; or
 - (iii) If the change is not known to Seller by the timeframes indicated in (i) or (ii) above, within twenty (20) minutes after Seller became aware or, using best efforts, should have become aware of the commencement of the event which caused the energy forecast change, e-mail changes to realtime@sce.com and immediately telephone SCE's Real-time Operations Desk in accordance with Exhibit C.
- (g) Forecasting Available Capacity.

If:

 - (i) Seller is Forecasting available capacity, in accordance with SCE's instructions;

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- (ii) Seller does not provide real-time communication of availability as provided in Section 3.08(g);
- (iii) The telecommunications path to obtain real-time data is inoperable; or
- (iv) Instrumentation is providing faulty or incorrect data; and

Seller learns of any change in the total available capacity of the Generating Facility for a period covered by the most recent Forecast update resulting from any cause, including an unplanned outage before the time that the next weekly update of the Forecast is due which Seller is required to report under the provisions of the CAISO Tariff related to PIRP/EIRP and under other applicable provisions of the CAISO Tariff related to availability and outage reporting, then Seller shall provide an updated Forecast to SCE. This updated Forecast must be submitted to SCE via the Web Client by no later than:

- (1) 5:00 a.m. PPT on the day before any day impacted by the change, if the change is known to Seller at that time. If the Web Client is not available, Seller shall e-mail these changes to presched@sce.com and immediately follow up with a phone call to SCE's Day-Ahead Scheduling Desk in accordance with Exhibit C;
- (2) Thirty (30) minutes before the commencement of any hour impacted by the change, if the change is known to Seller at that time; or
- (3) If the change is not known to Seller by the timeframes indicated in (1) or (2) above, within twenty (20) minutes after Seller becomes aware or, using best efforts, should have become aware of the event which caused the availability change, e-mail changes to realtime@sce.com and immediately telephone SCE's Real-time Operations Desk in accordance with Exhibit C.

(h) Seller's updated Forecast must reflect the following information:

- (i) The beginning date and time of the change;
- (ii) The expected ending date and time of the event;
- (iii) The expected availability, in MW (if so instructed by SCE);
- (iv) The expected energy, in MWh (if so instructed by SCE); and
- (v) Any other information required by the CAISO as communicated to Seller by SCE.

3. SCE's Scheduling Responsibilities.

SCE shall be responsible for Scheduling the Product in accordance with this Agreement.

RAP ID# [Number], [Seller's Name]

4. Seller's Outage Scheduling Requirements.

Seller shall meet all requirements and timelines for generation outage scheduling contained in the CAISO's Scheduled and Forced Outage Procedure 3220, or its successor, as posted on the CAISO's website.

*** End of EXHIBIT D ***

The contents of this document are subject to restrictions on disclosure as set forth herein.

Exhibit D

*Forecasting and Scheduling Requirements and Procedures
Page 4*

EXHIBIT E*Payments and Invoicing***1. COST RESPONSIBILITY, INVOICING AND PAYMENTS UPON COMMENCEMENT OF THE TERM****1.01 Cost Responsibility Upon Commercial Operation.****(a) SCE Cost Responsibility.**

Upon the Commercial Operation Date and for the remainder of the Term,

- (i) Except under the circumstances set forth in Section 4.01(e), SCE shall make monthly Product Payments to Seller for Product delivered to SCE calculated in the manner described in Section 1.02 below and Exhibit M;
- (ii) Except as set forth in Exhibit N and Section 1.01(b) of Exhibit E, SCE shall be responsible for all CAISO Costs and CAISO Sanctions and have the right to receive all CAISO Revenues;

- (iii) To the extent that SCE requires Seller to participate in the PIRP/EIRP program, SCE shall be responsible for PIRP/EIRP forecasting fees.
{SCE Comment: For Intermittent Only.}

(b) Seller Cost Responsibility.

Upon the Commercial Operation Date and for the remainder of the Term:

- (i) If Seller fails to comply with the Forecasting provisions set forth in Exhibit D, Seller shall pay an SCE Penalty as set forth in Exhibit N.
{SCE Comment: Intermittent only.}
- (ii) Seller shall be responsible for CAISO Costs and CAISO Sanctions, under the circumstances specified in Section 4.01(e) *[and RA Deficit Payments under the circumstances specified in Section 3.02]* *{SCE Comment: Only applicable if Seller has chosen the option to make RA Deficit Payments.}*
- (iii) Seller shall be responsible for Negative LMP Costs, if applicable, as set forth in Section 1.05(c)(i).
- (iv) Seller shall be responsible for CAISO Costs and CAISO Sanctions and receive CAISO Revenues under the circumstances specified in Section 1.05(c)(ii).
- (v) Seller shall make monthly payments calculated in the manner described in Section 1.02 below and Exhibit N.

1.02 Product Payment Calculations After Commercial Operation Date.

For the purpose of calculating monthly payments for Product delivered to SCE as of the Commercial Operation Date in accordance with the terms of this Agreement (“Product Payments”), Qualified Amounts will be time-differentiated according to the TOD Periods

set forth in Exhibit I and the pricing will be weighted by the Product Payment Allocation Factors.

Monthly Product Payments will equal the sum of (i) the sum of the TOD Period Product Payments for all TOD Periods in the month and (ii) the Curtailed Product Payment. Each TOD Period Product Payment will be calculated pursuant to the following formula, where “n” is the TOD Period being calculated:

$$\text{TOD PERIOD}_n \text{ PRODUCT PAYMENT} = A \times B \times (C - D - E) + F$$

Where:

- A = Product Price specified in Section 1.05 in \$/kWh (i.e., \$/MWh/1000).
- B = Product Payment Allocation Factor for the TOD Period being calculated.
- C = The sum of Qualified Amounts in all hours for the TOD Period being calculated in kWh.
- D = Any electric energy produced by the Generating Facility for which SCE is not obligated to pay Seller as set forth in Section 4.01(e).
- E = Any electric energy produced by the Generating Facility with respect to which Seller is entitled to CAISO Revenues as set forth in Section 1.05(c)(ii).
- F = CAISO Revenues with respect to electric energy produced by the Generating Facility for which Seller is entitled to CAISO Revenues as set forth in Section 1.05(c)(ii).

1.03 Payment During the Term.

On or before the last Business Day of the month following the applicable month for which the monthly Product Payment is being calculated, SCE shall:

- (a) Issue a Payment Invoice to Seller, including documentation supporting any SCE Penalties, Negative LMP Costs, CAISO Costs, CAISO Sanctions, *[RA Deficit Payments pursuant to Section 3.02]* {SCE Comment: FCDS projects only.}, or other applicable revenues, charges and offsets which affected the net amount in the Payment Invoice; and
- (b) Send to Seller, via wire transfer or Automated Clearing House, SCE’s payment of said net amount, less any applicable SCE Penalties, Negative LMP Costs, CAISO Costs, CAISO Sanctions, *[RA Deficit Payments pursuant to Section 3.02]* {SCE Comment: FCDS projects only.}, or other applicable charges or offsets plus, if such payment is late, an Interest Payment.

The Parties acknowledge that data necessary to calculate certain payment obligations of SCE and Seller under this Agreement may not be available at the time SCE issues the Payment Invoice with respect to a particular month. Any such payment obligations, including related documentation supporting such obligations, shall be included in a

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subsequent Payment Invoice issued to Seller on or before the last Business Day of the month following the month that is the later of (i) one hundred and twenty (120) days following the last day of the calendar month to which the data relates or (ii) thirty (30) days after the relevant CAISO final settlement data is available to SCE.

1.04 Recomputation and Payment Adjustments.

- (a) If Seller or SCE determines that a calculation of Qualified Amounts, Metered Amounts, CAISO Revenues, Negative LMP Costs, CAISO Costs, CAISO Sanctions, *[RA Deficit Payments]* {SCE Comment: *FCDS projects only.*}, or SCE Penalties is incorrect as a result of inaccurate meters, the correction of data by the CAISO in OMAR, or a recalculation of CAISO Sanctions or other amounts owing between the Parties, Seller or SCE, as the case may be, shall promptly recompute the Qualified Amounts, Metered Amounts, CAISO Revenues, Negative LMP Costs, CAISO Costs, CAISO Sanctions, *[RA Deficit Payments]* {SCE Comment: *FCDS projects only.*}, SCE Penalties or other amounts for the period of the inaccuracy based upon an adjustment of inaccurate meter readings, correction of data or recalculation of CAISO Sanctions in accordance with the CAISO Tariff and any payment affected by the adjustment or correction.

(b) Adjustment of Payment.

Any amount due from SCE to Seller, or Seller to SCE, as the case may be, will be made as an adjustment to the next monthly Payment Invoice that is calculated after Seller's or SCE's recomputation using corrected measurements.

If the recomputation results in a net amount owed to SCE after applying any amounts owing to Seller as shown on the next monthly Payment Invoice, any such amount owing to SCE will at SCE's discretion be netted against amounts owed to Seller in any subsequent monthly Payment Invoice or separately invoiced to Seller, in which case Seller must pay the amount owing to SCE within five (5) Business Days after receipt of that invoice.

SCE may make payment adjustments arising from a recalculation of CAISO Revenues, CAISO Costs, Negative LMP Costs, CAISO Sanctions, *[RA Deficit Payments]* {SCE Comment: *Only applicable if Seller has chosen the option to make RA Deficit Payments.*}, SCE Penalties, or as a result of inaccurate meters after the end of the Term Year, *provided*, the Parties will be deemed to have waived any such payment adjustments which are not communicated as provided in this Section 2.04 of this Exhibit E within twelve (12) months after the end of the month in which the Payment Invoice was issued containing the error.

Adjustment payments for meter inaccuracy will not bear interest.

1.05 Netting Rights.

SCE reserves the right to net amounts that would otherwise be due to Seller under this Agreement in payment of any amounts:

- (a) Owing and unpaid by Seller to SCE under this Agreement; or

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- (b) Owed to SCE by Seller arising out of, or related to, any other SCE agreement, tariff, obligation or liability.

Nothing in this Section 1.05 of this Exhibit E limits SCE's rights under applicable tariffs, other agreements or Applicable Law.

2. PAYMENT ERRORS

2.01 Notice of Error in Payment.

Except as provided in Section 1.04 of this Exhibit E, if within forty-five (45) days after receipt of SCE's Payment, Seller does not give SCE Notice of an error in the payment amount, then Seller will be deemed to have waived any error in the payment.

2.02 Reimbursement for Underpayments and Overpayments.

If Seller identifies a payment error in Seller's favor and SCE agrees that the identified error occurred, SCE shall reimburse Seller for the amount of the underpayment caused by the error and apply the additional payment to the next monthly Payment Invoice that is calculated.

If Seller identifies a payment error in SCE's favor and SCE agrees that the identified error occurred, SCE may net the amount of overpayment caused by the error against amounts otherwise owed to Seller in connection with the next monthly Payment Invoice that is calculated.

2.03 Late Payments.

Late payments to Seller resulting from SCE's errors, or overpayments to Seller by SCE, will include an Interest Payment (or, in the case of overpayments by SCE, commencing five (5) Business Days from the date SCE provides Notice of such overpayments to Seller) and the date paid; *provided*, changes made because of settlement, audit or other information provided by the CAISO and not available to SCE when SCE rendered its original Payment Invoice will not bear interest.

2.04 Netting after Recomputation.

If the recomputation for an error results in a net amount still owing to SCE after applying the amounts owed to SCE against any amounts owed to Seller in the Payment Invoice, as described above, then SCE may, in its discretion, either net this net remaining amount owed to SCE against amounts owed to Seller in any subsequent monthly Payment Invoice to Seller or invoice Seller for such amount, in which case Seller must pay the amount owing to SCE within five (5) Business Days after receipt of such invoice.

2.05 Resolution of Disputes.

The Parties shall negotiate in good faith to resolve any disputes regarding claimed errors in a Payment. Any disputes which the Parties are unable to resolve through negotiation may be submitted for resolution through the mediation and arbitration as provided in Article Twelve. Upon resolution of the Dispute, any required payment shall be made

RAP ID# [Number], [Seller's Name]

within ten (10) Business Days of such resolution along with an Interest Payment from and including the due date but excluding the date paid.

*** End of EXHIBIT E ***

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT F-1

Product Replacement Damage Amount

*****SCE Comment: For Baseload Only.*****

In accordance with the provisions of Section 3.07, if in any Term Year an Event of Deficient Energy Deliveries occurs over the Calculation Period, then Seller shall be subject to a Product Replacement Damage Amount penalty calculated as follows:

PRODUCT REPLACEMENT DAMAGE AMOUNT =

$$(A - B - C) \times (D - E)$$

Where:

- A = Seller's Annual Energy Delivery Obligation in kWh.
- B = Sum of Qualified Amounts over the Term Year in kWh.
- C = Sum of Lost Output over the Term Year in kWh.
- D = Simple average of the Green Market Price for all Settlement Intervals in the Term Year in \$/kWh.
- E = Product Price in Section 1.05(a), in \$/kWh (i.e., \$/MWh/1000).

Notes:

1. In the above calculation, the result of "(D - E)" will not be greater than five cents (\$0.05) per kWh or less than two cents (\$0.02) per kWh.
2. In no event will SCE pay a Product Replacement Damage Amount.

***** End of EXHIBIT F *****

EXHIBIT F-2

Product Replacement Damage Amount

*****SCE Comment: For Intermittent Only.*****

In accordance with the provisions of Section 3.07, if at the end of any Term Year, commencing with the end of the second Term Year, an Event of Deficient Energy Deliveries occurs over the Calculation Period, then Seller shall be subject to a Product Replacement Damage Amount penalty calculated as follows:

PRODUCT REPLACEMENT DAMAGE AMOUNT =

$$[(A - B - C) \times (D - E)]$$

Where:

- A = Seller's Energy Delivery Obligation in kWh.
- B = Sum of Qualified Amounts over the Calculation Period in kWh.
- C = Sum of Lost Output over the Calculation Period in kWh.
- D = Simple average of the Green Market Price for all Settlement Intervals during the Calculation Period in \$/kWh.
- E = Product Price in Section 1.05(a), in \$/kWh (i.e., \$/MWh/1000).

Notes:

1. In the above calculation, the result of "(D - E)" will not be greater than five cents (\$0.05) per kWh or less than two cents (\$0.02) per kWh.
2. In no event will SCE pay a Product Replacement Damage Amount.

***** End of EXHIBIT F *****

EXHIBIT G*Seller's Milestone Schedule and Material Permits*

Seller's Milestone Schedule

No.	Date	Milestones
1		Submits interconnection application.
2		Files any land applications.
3		Files Construction Permit application(s).
4		Files a CEC Pre-Certification application.
5		Files Material Permit applications.
6		Receives a completed System Impact Study or Phase I Interconnection Study.
7		Obtains control of all lands and rights-of-way comprising the Site.
8		Receives a completed interconnection Facility Study or Phase II Interconnection Study.
9		Executes an interconnection agreement and transmission/distribution service agreement, as applicable.
10		Receives FERC acceptance of interconnection agreement and transmission agreement.
11		Receives Construction Permit.
12		Receives Material Permits.
13		Receives CEC Pre-Certification.
14		Executes an Engineering, Procurement and Construction ("EPC") contract.
15		Procures the <i>[applicable electrical generating equipment]</i> for the Generating Facility.
16		Completes financing, including construction financing.
17		Begins construction of the Generating Facility.
18		Begins startup activities.
19		Conference with SCE Contract Manager regarding startup activities <i>{SCE Comment: Conference should occur no later than 150 days prior to the Commercial Operation Date.}</i>
19		Commercial Operation Date.
20		Demonstrates the Contract <i>Capacity [and Installed DC Rating] {SCE Note: For Solar Photovoltaic}.</i>
21		Receives CEC Certification.

The contents of this document are subject to restrictions on disclosure as set forth herein.

The contents of this document are subject to restrictions on disclosure as set forth herein.

*RAP ID# [Number], [Seller's Name]***Seller's Material Permits**

<i>No.</i>	<i>Permits</i>
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	

*** *End of EXHIBIT G* ***

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT H*Milestone Progress Reporting Form*

Seller shall prepare a written report each month on its progress relative to the development construction and startup of the Generating Facility and the Milestone Schedule. The report must be sent via e-mail in the form of a single Adobe Acrobat file or facsimile to SCE's Contract Administrator, as noted in Exhibit C, on the fifth (5th) Business Day after each month.

Seller's obligation to complete a Milestone Progress Reporting Form for the preceding month and submit such report to SCE begins on the first day of the first full calendar month after the Effective Date of this Agreement and ends immediately after a Milestone Progress Reporting Form is completed and submitted for the month following the month in which Seller demonstrates the Contract Capacity [and Installed DC Rating] {SCE Note: Solar photovoltaic} in accordance with Exhibit J.

Each Milestone Progress Report must include the following items:

1. Cover page.
2. Brief Generating Facility description.
3. Site plan of the Generating Facility.
4. Description of any planned changes to the Generating Facility and Site Description in Exhibit B.
5. Bar chart schedule showing progress on achieving the Milestone Schedule.
6. PERT or GANT chart showing critical path schedule of major items and activities.
7. Summary of activities during the previous month.
8. Forecast of activities scheduled for the current month.
9. Written description about the progress relative to Seller's Milestone Schedule.
10. List of issues that could potentially impact Seller's Milestone Schedule.
11. Enumeration and schedule of any support or actions requested of SCE.
12. Progress and schedule of all agreements, contracts, Permits, approvals, technical studies, financing agreements and major equipment purchase orders showing the start dates, completion dates, and completion percentages.
13. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Generating Facility performance including performance projections for the next twelve (12) months.
14. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Generating Facility, Transmission Provider's electric system and all other interconnection utility services.

*** End of EXHIBIT H ***

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT I*Time of Delivery Periods
and
Product Payment Allocation Factors*

	Time of Delivery Periods (“TOD Periods”)	
<i>TOD Period</i>	<i>Time of Day</i>	<i>Applicable Days</i>
Summer On	4:00 PM to 8:59 PM	Weekdays except Holidays
Summer Mid	4:00 PM to 8:59 PM	Weekends and Holidays
Summer Off	12:00 AM to 3:59 PM and 9:00 PM to 11: 59 PM	Weekdays, Weekends and Holidays
Winter Mid	4:00 PM to 8:59 PM	Weekdays, Weekends and Holidays
Winter Off	12:00 AM to 7:59 AM and 9:00 PM to 11:59 PM	Weekdays, Weekends and Holidays
Winter Super Off	8:00 AM to 3:59 PM	Weekdays, Weekends and Holidays

<u>Product Payment Allocation Factors</u>		
<i>Season</i>	<i>TOD Period</i>	<i>Product Payment Allocation Factor</i>
Summer <i>Jun 1st – Sep 30th</i>	On-Peak	1.36
	Mid-Peak	1.24
	Off-Peak	1.00
Winter <i>Oct 1st – May 31st</i>	Mid-Peak	1.26
	Off-Peak	1.23
	Super-Off-Peak	0.42

“Holiday” is defined as New Year’s Day, Presidents’ Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, and Christmas Day.

When any Holiday falls on a Sunday, the following Monday will be recognized as a Holiday. No change will be made for Holidays falling on Saturday.

*** End of EXHIBIT I ***

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT J-1

Procedure for Demonstration of Contract Capacity

*****SCE Comment: For Intermittent only.*****

1. Seller's Notice of Demonstration Date.

Seller shall provide at least thirty (30) days prior Notice to SCE of the date selected by Seller ("Demonstration Date"), which Demonstration Date shall be no later than thirty (30) days following the Commercial Operation Date, during which Seller intends to demonstrate the Contract Capacity. Upon SCE's request, Seller shall make reasonable efforts to reschedule the Demonstration Date.

2. Demonstration of Contract Capacity [and Installed DC Rating] {SCE Comment: For Solar Photovoltaic}.

SCE shall complete a site visit on the Demonstration Date to verify that the Generating Facility was developed in accordance with the Generating Facility and Site Description set forth in Exhibit B and to determine the Demonstrated Contract Capacity [and the Demonstrated Installed DC Rating] {SCE Comment: For Solar Photovoltaic}. In order to determine the Demonstrated Contract Capacity, SCE shall calculate the total nameplate rating for the generating equipment that is installed at the Generating Facility.

***** End of EXHIBIT J *****

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT J-2

Procedure for Demonstration of Contract Capacity

*****SCE Comment: For Baseload only.*****

1. Seller's Notice of Demonstration Hour.

Seller shall provide Notice to SCE of the date and hour selected by Seller, which hour must have occurred within thirty (30) days following the Commercial Operation Date, during which Seller claims it has demonstrated the applicable Contract Capacity ("Demonstration Hour").

2. Demonstration of Contract Capacity.

- (a) Unless SCE provides timely Notice to Seller that additional days are required to substantiate data, SCE shall, within thirty (30) days after Seller's Notice of the Demonstration Hour, retrieve interval data downloaded from the CAISO Approved Meter or Check Meter for the twelve (12) hour periods before and after the Demonstration Hour; and
- (b) SCE may, at its sole discretion, complete a site visit within thirty (30) days after SCE's receipt of Seller's Notice of the Demonstration Hour to verify that the Generating Facility was developed in accordance with the Generating Facility and Site Description set forth in Exhibit B.

***** End of EXHIBIT J *****

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT K-1*Seller's Estimate of Lost Output****** SCE Comment: Wind only. *****

Lost Output, as used in Section 3.21, shall be estimated by Seller in accordance with the procedures described in this Exhibit L.

Seller shall (i) collect the measurement data and perform the engineering calculations specified below in one (1) or more Microsoft Excel Workbooks (the "Lost Output Workbook") provided in a form and naming convention approved by SCE and (ii) electronically send the Lost Output Workbook to an address provided by SCE.

SCE shall have the right to verify all data by inspecting measurement instruments and reviewing Generating Facility Operating records.

Seller shall update the Lost Output Workbook each month and shall include the latest revision of the Lost Output Workbook with its monthly Lost Output Report.

1. Log of Lost Output Events.

The log of Lost Output Events must be created on a single, dedicated worksheet that is arranged with:

- (a) One (1) column for a unique Lost Output Event number;
- (b) One (1) column for the Term Year number;
- (c) One (1) column for the start date;
- (d) One (1) column for the start time;
- (e) One (1) column for the end date;
- (f) One (1) column for the end time;
- (g) One (1) column for the duration;
- (h) One (1) column for the cause;
- (i) One (1) column for the total of Metered Amounts during all of the Settlement Intervals of the Lost Output Event, recorded as set forth in Item 4(i) in this Exhibit K;
- (j) One (1) column for the total of the Lost Output *preliminary* results during all of the Settlement Intervals of the Lost Output Event, calculated as set forth in Item 4(j) in this Exhibit K;
- (k) One (1) column for a percentage calculated by *dividing* the preliminary results set forth in Item 1(j) of this Exhibit K by the Metered Amounts set forth in Item 1(i) of this Exhibit K;

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- (l) One (1) column for the total of the Lost Output *final* results during all of the Settlement Intervals of the Lost Output Event, calculated as set forth in Item 4(k) in this Exhibit K; and

- (m) One (1) row for each Lost Output Event.

2. Generating Facility Power Curve.

Seller shall create a Generating Facility Power Curve table on a single dedicated worksheet that is arranged with:

- (a) One (1) column for an item number;
- (b) One (1) column for the wind speeds;
- (c) One (1) column for the manufacturer's estimate of the electric energy that can be produced by a single Wind Turbine at each wind speed;
- (d) One (1) column for a power curve which estimates the electric energy that could be produced by the entire Generating Facility at each wind speed calculated by:
 - (i) *Multiplying* the Wind Turbine manufacturer's estimate of the electric energy that will be produced by a single Wind Turbine, set forth in Item 2(c);
 - (ii) *Times* the total number of Generating Facility Wind Turbines; and then
 - (iii) *Adjusting* the results for the estimated impacts the Wind Turbines have on each other and for electric losses within the Generating Facility;
- (e) One (1) column for each Term Year power curve which includes a simple average of all Metered Amount data points, set forth in Item 3(f) of this Exhibit K, at each wind speed; and
- (f) One (1) row for each one half (0.5) meter per second wind speed.

Seller shall also create a single chart which plots all of power curves set forth in Item 2(d) and Item 2(e) of this Exhibit K on the Generating Facility Power Curve worksheet.

3. Wind Speed Data Collection.

Seller shall record average Settlement Interval wind speeds, in increments of one half (0.5) meters per second, and Metered Amounts for the Settlement Interval in the Lost Output Workbook on individual Term Year worksheets.

Each Term Year worksheet must be arranged with:

- (a) One (1) column for an item number;
- (b) One (1) column for the date;
- (c) One (1) column for the beginning time;
- (d) One (1) column for the weekday;

- (e) One (1) column for each recorded wind speed measurement;
- (f) One (1) column for each Metered Amounts quantity;
- (g) One (1) row for each Settlement Interval period.

4. Detailed Estimate of Lost Output.

Seller's detailed estimate of the Lost Output amounts during the Term shall be presented on a single worksheet organized as follows:

- (a) One column for an item number;
- (b) One (1) column for the Lost Output Event number;
- (c) One (1) column for the state date;
- (d) One (1) column for the start time;
- (e) One (1) column for the end date;
- (f) One (1) column for the end time;
- (g) One (1) column for the weekday;
- (h) One (1) column for the wind speeds;
- (i) One (1) column for Metered Amounts;
- (j) One (1) column for a *preliminary* estimate of the Metered Amounts that would have been produced by the Generating Facility, but for the Lost Output Event calculated by:
 - (i) *Multiplying* the wind speed;
 - (ii) *Times* the appropriate initial power curve as follows:
 - (1) For the first eleven (11) months of the first Term Year the appropriate initial power curve shall be the power curve set forth in Item 2(d) of this Exhibit K;
 - (2) For the first eleven (11) months of any Term Year, other than the first Term Year, the appropriate initial power curve shall be the power curve set forth in Item 2(e) of this Exhibit K for the previous Term Year;
- (k) One (1) column for a *final* estimate of the Metered Amounts that would have been produced by the Generating facility, but for the Lost Output Event calculated by:
 - (i) *Multiplying* the wind speed;
 - (ii) *Times* the *final* power curve from Item 2(e) of this Exhibit K for the Term Year being calculated;
- (l) One (1) column for the *preliminary* estimate of Lost Output calculated by:

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- (i) *Subtracting* the actual Metered Amounts set forth in Item 4(i) of this Exhibit K;
- (ii) *From the preliminary* estimate of the Metered Amounts that would have been produced by the Generating Facility, but for the Lost Output Event, calculated in Item 4(j); and
- (m) One (1) column for the *final* estimate of Lost Output calculated by:
 - (i) *Subtracting* the actual Metered Amounts set forth in Item 4(i) of this Exhibit K;
 - (ii) *From the final* estimate of Metered Amounts that would have been produced by the Generating Facility, but for the Lost Output Event, calculated in Item 4(k) of this Exhibit K; and
- (n) One (1) row for each Settlement Interval.

5. Generating Facility Efficiency Calculation.

Seller shall calculate a Generating Facility efficiency value for each calendar month and each Term Year on a dedicated worksheet organized with three tables.

- (a) The first table must contain the monthly Metered Amount totals and must consist of:
 - (i) One (1) column for the month number;
 - (ii) One (1) column for the month name;
 - (iii) One (1) column for the year number;
 - (iv) One (1) column for the monthly Metered Amount totals for each Term Year from the wind speed data collection worksheet column set forth in Item 3(f) of this Exhibit K; and
 - (v) One (1) row for each month;
- (b) The second table must contain the monthly totals of forecasted Metered Amount and must consist of:
 - (i) One (1) column for the month number;
 - (ii) One (1) column for the month name;
 - (iii) One (1) column for the year number;
 - (iv) One (1) column for the monthly totals of forecasted Metered Amount for each Term Year from the wind speed data collection worksheet column set forth in Item 4(j) of this Exhibit K; and
 - (v) One (1) row for each month; and
- (c) The third table must contain monthly Metered Amount totals and must consist of:

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- (i) One (1) column for the month number;
- (ii) One (1) column for the month name;
- (iii) One (1) column for the year number;
- (iv) One (1) column for a monthly Generating Facility efficiency result and a Term Year Generating Facility efficiency results calculated by:
 - (1) *Dividing* the appropriate value in the first table;
 - (2) *By* the appropriate value in the second table;
- (v) One (1) row for each month; and
- (vi) One (1) row for the Term Year Generating Facility efficiency results.

6. Periodic Review of Lost Output Calculation.

At least once per Term Year, SCE shall review the variation in the Lost Output preliminary and final results to determine if other variables, including temperature, ambient pressure, humidity, precipitation or other parameters measured pursuant to Exhibit P, should be incorporated into the Lost Output calculations.

7. Assignment of Lost Output Estimate to an Independent Consultant.

The Parties can by mutual agreement elect to have the estimate of Lost Output prepared by an independent consultant.

*** End of EXHIBIT K ***

EXHIBIT K-2a*Seller's Estimate of Lost Output****** SCE Comment: Solar Thermal only. *****

Lost Output, as used in Section 3.21, shall be estimated by Seller in accordance with the procedures described in this Exhibit K.

Seller shall (1) collect the measurement data and perform the engineering calculations specified below in one (1) or more Microsoft Excel Workbooks (the "Lost Output Workbook") provided in a form and naming convention approved by SCE and (2) electronically send the Lost Output Workbook to an address provided by SCE.

SCE shall have the right to verify all data by inspecting measurement instruments and reviewing Generating Facility Operating records.

Seller shall update the Lost Output Workbook each month and shall include the latest revision of the Lost Output Workbook with its monthly Lost Output Report.

1. Log of Lost Output Events.

The log of Lost Output Events must be created on a single, dedicated worksheet that is arranged with:

- (a) One (1) column for a unique Lost Output Event number;
- (b) One (1) column for the Term Year number;
- (c) One (1) column for the start date;
- (d) One (1) column for the start time;
- (e) One (1) column for the end date;
- (f) One (1) column for the end time;
- (g) One (1) column for the duration;
- (h) One (1) column for the cause;
- (i) One (1) column for the total of Metered Amounts during all of the Settlement Intervals of the Lost Output Event, recorded as set forth in Item 4(i) in this Exhibit K;
- (j) One (1) column for the total of the Lost Output *preliminary* results during all of the Settlement Intervals of the Lost Output Event, calculated as set forth in Item 4(m) in this Exhibit K;
- (k) One (1) column for the total of the Lost Output *final* results during all of the Settlement Intervals of the Lost Output Event, calculated as set forth in Item 4(n) in this Exhibit K; and
- (l) One (1) row for each Lost Output Event.

The contents of this document are subject to restrictions on disclosure as set forth herein.

2. Generating Facility Power Curve.

Seller shall create a Generating Facility Power Curve table on a single dedicated worksheet that is arranged with:

- (a) One (1) column for an item number;
- (b) One (1) column for the direct normal insolation;
- (c) One (1) column for the manufacturer's estimate of the electric energy that can be produced by a single Solar Generating Unit at each increment of direct normal insolation;
- (d) One (1) column for a power curve which estimates the electric energy that could be produced by the entire Generating Facility at each direct normal insolation increment calculated by:
 - (i) *Multiplying* the Solar Generating Unit manufacturer's estimate of the electric energy that will be produced by a single Solar Generating Unit, set forth in Item 2(c);
 - (ii) *Times* the total number of Generating Facility Solar Generating Unit; and then
 - (iii) *Adjusting* the results for the estimated impacts of one (1) Solar Generating Unit on another and for electric losses within the Generating Facility;
- (e) One (1) column for each Term Year power curve which includes a simple average of all Metered Amount data points, set forth in Item 3(f), at each direct normal insolation increment; and
- (f) One (1) row for each watt-hour per square meter.

Seller shall also create a single chart which plots all of power curve set forth in Item 2(d) and Item 2(e) of this Exhibit K on the Generating Facility Power Curve worksheet.

3. Direct Normal Insolation Data Collection.

Seller shall record Settlement Interval direct normal insolation, in watt-hours per square meter, and Metered Amounts in the Settlement Interval in the Lost Output Workbook on individual Term Year worksheets.

Each Term Year worksheet must be arranged with:

- (a) One (1) column for an item number;
- (b) One (1) column for the date;
- (c) One (1) column for the beginning time;
- (d) One (1) column for the weekday;
- (e) One (1) column for each recorded direct normal insolation measurement;
- (f) One (1) column for each Metered Amounts quantity;

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- (g) One (1) column for a forecast of Metered Amounts determined by:
 - (i) *Multiplying* the recorded direct normal insolation measurement set forth in Item 3(e) of this Exhibit K;
 - (ii) *Times* the appropriate value in the Generating Facility Power Curve, set forth in Item 2(e) of this Exhibit K, for the first Term Year;
- (h) One (1) column for the number of Solar Generating Units in service; and
- (i) One (1) row for each Settlement Interval period.

4. Detailed Estimate of Lost Output.

Seller's detailed estimate of the Lost Output amounts during the Term shall be presented on a single worksheet organized as follows:

- (a) One column for an item number;
- (b) One (1) column for the Lost Output Event number;
- (c) One (1) column for the state date;
- (d) One (1) column for the start time;
- (e) One (1) column for the end date;
- (f) One (1) column for the end time;
- (g) One (1) column for the weekday;
- (h) One (1) column for the direct normal insolation;
- (i) One (1) column for Metered Amounts;
- (j) One (1) column for the number of Solar Generating Units in service;
- (k) One (1) column for a *preliminary* estimate of the Metered Amounts that would have been produced by the Generating Facility, but for the Lost Output Event:
 - (i) *Multiplying* the direct normal insolation:
 - (ii) *Times* the appropriate initial power curve as follows:
 - (1) For the first eleven (11) months of the first Term Year the appropriate initial power curve must be the power curve set forth in Item 2(d) of this Exhibit K;
 - (2) For the first eleven (11) months of any Term Year, other than the first Term Year, the appropriate initial power curve must be the power curve set forth in Item 2(e) of this Exhibit K for the previous Term Year;
- (l) One (1) column for a *final* estimate of the Metered Amounts that would have been produced by the Generating facility, but for the Lost Output Event calculated by:
 - (i) *Multiplying* the direct normal insolation;

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- (ii) *Times the final power curve from Item 2(e) of this Exhibit K for the Term Year being calculated;*
 - (m) One (1) column for the *preliminary* estimate of Lost Output calculated by:
 - (i) *Subtracting the actual Metered Amount quantities set forth in Item 4(i) of this Exhibit K;*
 - (ii) *From the preliminary estimate of the Metered Amounts that would have been produced by the Generating Facility, but for the Lost Output Event, calculated in Item 4(k); and*
 - (n) One (1) column for the *final* estimate of Lost Output calculated by
 - (i) *Subtracting the actual Metered Amount quantities set forth in Item 4(i) of this Exhibit K;*
 - (ii) *From the estimate of Metered Amounts that would have been produced by the Generating Facility, but for the Lost Output Event, calculated in Item 4(l) of this Exhibit K; and*
 - (o) One (1) row for each Settlement Interval.
5. Generating Facility Performance Factor Calculation.
- Seller shall calculate a Generating Facility Efficiency value for each calendar month and each Term Year on a dedicated worksheet organized with three tables.
- (a) The first table must contain the monthly Metered Amount totals and must consist of:
 - (i) One (1) column for the month number;
 - (ii) One (1) column for the month name;
 - (iii) One (1) column for the year number;
 - (iv) One (1) column for the monthly Metered Amount totals for each Term Year from the direct normal insolation data collection worksheet column set forth in Item 3(f) of this Exhibit K; and
 - (v) One (1) row for each month;
 - (b) The second table must contain the monthly totals of forecasted Metered Amount and must consist of:
 - (i) One (1) column for the month number;
 - (ii) One (1) column for the month name;
 - (iii) One (1) column for the year number;
 - (iv) One (1) column for the monthly totals of forecasted Metered Amount for each Term Year from the direct normal insolation data collection worksheet column set forth in Item 3(g) of this Exhibit K; and

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- (v) One (1) row for each month; and
 - (c) The third table must contain monthly Metered Amount performance factors and must consist of:
 - (i) One (1) column for the month number;
 - (ii) One (1) column for the month name;
 - (iii) One (1) column for the year number;
 - (iv) One (1) column for a monthly Generating Facility performance factor result and a Term Year Generating Facility performance factor results calculated by:
 - (1) *Dividing* the appropriate value in the first table;
 - (2) *By* the appropriate value in the second table;
 - (v) One (1) row for each month; and
 - (vi) One (1) row for the Term Year Generating Facility performance factor results.
6. Periodic Review of Lost Output Calculation.
- At least once per Term Year, SCE shall review the variation in the Lost Output preliminary and final results to determine if other variables, including temperature or other parameters measured pursuant to Exhibit P, should be incorporated into the Lost Output calculations.
7. Assignment of Lost Output Estimate to an Independent Consultant.
- The Parties can by mutual agreement elect to have the estimate of Lost Output prepared by an independent consultant.

*** End of EXHIBIT K ***

EXHIBIT K-2b*Seller's Estimate of Lost Output****** SCE Comment: Solar Photovoltaic only. *****

Lost Output, as used in Section 3.21, shall be estimated by Seller in accordance with the procedures described in this Exhibit K.

Seller shall (1) collect the measurement data and perform the engineering calculations specified below in one (1) or more Microsoft Excel Workbooks (the "Lost Output Workbook") provided in a form and naming convention approved by SCE and (2) electronically send the Lost Output Workbook to an address provided by SCE.

SCE shall have the right to verify all data by inspecting measurement instruments and reviewing Generating Facility Operating records.

Seller shall update the Lost Output Workbook each month and shall include the latest revision of the Lost Output Workbook with its monthly Lost Output Report.

1. Log of Lost Output Events.

The log of Lost Output Events must be created on a single, dedicated worksheet that is arranged with:

- (a) One (1) column for a unique Lost Output Event number;
- (b) One (1) column for the Term Year number;
- (c) One (1) column for the start date;
- (d) One (1) column for the start time;
- (e) One (1) column for the end date;
- (f) One (1) column for the end time;
- (g) One (1) column for the duration;
- (h) One (1) column for the cause;
- (i) One (1) column for the total of Metered Amounts during all of the Settlement Intervals of the Lost Output Event, recorded as set forth in Item 4(i) in this Exhibit K;
- (j) One (1) column for the total of the Lost Output *preliminary* results during all of the Settlement Intervals of the Lost Output Event, calculated as set forth in Item 4(m) in this Exhibit K;
- (k) One (1) column for the total of the Lost Output *final* results during all of the Settlement Intervals of the Lost Output Event, calculated as set forth in Item 4(n) in this Exhibit K; and
- (l) One (1) row for each Lost Output Event.

The contents of this document are subject to restrictions on disclosure as set forth herein.

2. Generating Facility Energy Yield Curve.

Seller shall create a Generating Facility Energy Yield Curve table on a single dedicated worksheet that is arranged with:

- (a) One (1) column for an item number;
- (b) One (1) column for the plane of array insolation;
- (c) One (1) column for the manufacturer's estimate of the electric energy that can be produced by a single Inverter Block Unit at each increment of plane of array insolation;
- (d) Multiple columns for an energy yield curve which estimates the electric energy that could be produced by the entire Generating Facility at each plane of array insolation increment and number of in service Inverter Block Units calculated by:
 - (i) *Multiplying* the Inverter Block Unit manufacturer's estimate of the electric energy that will be produced by a single unit, set forth in Item 2(c);
 - (ii) *Times* the total number of in service Inverter Block Units; and then
 - (iii) *Adjusting* the results for the estimated impacts of one (1) Inverter Block Unit on another and for electric losses within the Generating Facility;
- (e) Multiple columns for each Term Year energy yield curve which includes a simple average of all Metered Amount data points, set forth in Item 3(f), at each plane of array insolation increment and number of in service Inverter Block Units; and
- (f) One (1) row for each watt-hour per square meter of plane of array insolation.

Seller shall also create a single chart which plots all of energy yield curves set forth in Item 2(d) and Item 2(e) of this Exhibit K on the Generating Facility Energy Yield Curve worksheet.

3. Plane of Array Insolation Data Collection.

Seller shall record Settlement Interval plane of array insolation, in watt-hours per square meter, and Metered Amounts in the Settlement Interval in the Lost Output Workbook on individual Term Year worksheets.

Each Term Year worksheet must be arranged with:

- (a) One (1) column for an item number;
- (b) One (1) column for the date;
- (c) One (1) column for the beginning time;
- (d) One (1) column for the weekday;
- (e) One (1) column for each recorded plane of array insolation measurement;
- (f) One (1) column for each Metered Amounts quantity;

- (g) One (1) column for a forecast of Metered Amounts determined by:
 - (i) *Multiplying* the recorded plane of array insolation measurement set forth in Item 3(e) of this Exhibit K;
 - (ii) *Times* the appropriate value in the Generating Facility Energy Yield Curve, set forth in Item 2(e) of this Exhibit K, for the first Term Year;
- (h) One (1) column for the number of Inverter Blocks in service; and
- (i) One (1) row for each Settlement Interval period.

4. Detailed Estimate of Lost Output.

Seller's detailed estimate of the Lost Output amounts during the Term shall be presented on a single worksheet organized as follows:

- (a) One column for an item number;
- (b) One (1) column for the Lost Output Event number;
- (c) One (1) column for the state date;
- (d) One (1) column for the start time;
- (e) One (1) column for the end date;
- (f) One (1) column for the end time;
- (g) One (1) column for the weekday;
- (h) One (1) column for the plane of array insolation;
- (i) One (1) column for Metered Amounts;
- (j) One (1) column for the number of Inverter Block Units in service.
- (k) One (1) column for a *preliminary* estimate of the Metered Amounts that would have been produced by the Generating Facility, but for the Lost Output Event:
 - (i) *Multiplying* the plane of array insolation;
 - (ii) *Times* the appropriate initial energy yield curve as follows:
 - (1) For the first eleven (11) months of the first Term Year the appropriate initial energy yield curve must be the energy yield curve set forth in Item 2(d) of this Exhibit K;
 - (2) For the first eleven (11) months of any Term Year, other than the first Term Year, the appropriate initial energy yield curve must be the energy yield curve set forth in Item 2(e) of this Exhibit K for the previous Term Year;
- (l) One (1) column for a *final* estimate of the Metered Amounts that would have been produced by the Generating facility, but for the Lost Output Event calculated by:
 - (i) *Multiplying* the plane of array insolation;

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- (ii) *Times the final energy yield curve* from Item 2(e) of this Exhibit K for the Term Year being calculated;
- (m) One (1) column for the *preliminary* estimate of Lost Output calculated by:
 - (i) *Subtracting* the actual Metered Amount quantities set forth in Item 4(i) of this Exhibit K;
 - (ii) *From* the preliminary estimate of the Metered Amounts that would have been produced by the Generating Facility, but for the Lost Output Event, calculated in Item 4(k); and
- (n) One (1) column for the *final* estimate of Lost Output calculated by
 - (i) *Subtracting* the actual Metered Amount quantities set forth in Item 4(i) of this Exhibit K;
 - (ii) *From* the estimate of Metered Amounts that would have been produced by the Generating Facility, but for the Lost Output Event, calculated in Item 4(l) of this Exhibit K; and
- (o) One (1) row for each Settlement Interval.

5. Generating Facility Performance Factor Calculation.

Seller shall calculate a Generating Facility Performance Factor value for each calendar month and each Term Year on a dedicated worksheet organized with three tables.

- (a) The first table must contain the monthly Metered Amount totals and must consist of:
 - (i) One (1) column for the month number;
 - (ii) One (1) column for the month name;
 - (iii) One (1) column for the year number;
 - (iv) One (1) column for the monthly Metered Amount totals for each Term Year from the plane of array insolation data collection worksheet column set forth in Item 3(f) of this Exhibit K; and
 - (v) One (1) row for each month;
- (b) The second table must contain the monthly totals of forecasted Metered Amount and must consist of:
 - (i) One (1) column for the month number;
 - (ii) One (1) column for the month name;
 - (iii) One (1) column for the year number;
 - (iv) One (1) column for the monthly totals of forecasted Metered Amount for each Term Year from the plane of array insolation data collection worksheet column set forth in Item 3(g) of this Exhibit K; and

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- (v) One (1) row for each month; and
 - (c) The third table must contain monthly Performance Factors and must consist of:
 - (i) One (1) column for the month number;
 - (ii) One (1) column for the month name;
 - (iii) One (1) column for the year number;
 - (iv) One (1) column for a monthly Generating Facility Performance Factor result and a Term Year Generating Facility Performance Factor results calculated by:
 - (1) *Dividing* the appropriate value in the first table;
 - (2) *By* the appropriate value in the second table;
 - (v) One (1) row for each month; and
 - (vi) One (1) row for the Term Year Generating Facility Performance Factor results.
6. Periodic Review of Lost Output Calculation.
- At least once per Term Year, SCE shall review the variation in the Lost Output preliminary and final results to determine if other variables, including temperature, precipitation, solar altitude or azimuth angles or other parameters measured pursuant to Exhibit P, should be incorporated into the Lost Output calculations.
7. Assignment of Lost Output Estimate to an Independent Consultant.
- The Parties can by mutual agreement elect to have the estimate of Lost Output prepared by an independent consultant.

*** End of EXHIBIT K ***

EXHIBIT K-3*Seller's Estimate of Lost Output****** SCE Comment: Biomass only. *****

Lost Output, as used in Section 3.21, shall be estimated by Seller in accordance with the procedures described in this Exhibit K.

Seller shall (1) collect the measurement data and perform the engineering calculations specified below in one (1) or more Microsoft Excel Workbooks (the "Lost Output Workbook") provided in a form and naming convention approved by SCE and (2) electronically send the Lost Output Workbook to an address provided by SCE.

SCE shall have the right to verify all data by inspecting measurement instruments and reviewing Generating Facility Operating records.

Seller shall update the Lost Output Workbook each month and shall include the latest revision of the Lost Output Workbook with its monthly Lost Output Report.

1. Log of Lost Output Events.

The log shall be kept on a single Worksheet in the Lost Output Workbook. Such log shall identify the date, time, duration, cause and amount by which the Generating Facility's output was curtailed for each Lost Output Event.

2. Data Collection.

Seller shall record all hourly Metered Amounts, during the Term, in the Lost Output Workbook on a single worksheet labeled "Metered Amounts".

The worksheet shall be arranged with:

- (a) One (1) column for the date;
- (b) One (1) column for the time;
- (c) One (1) column for the weekday;
- (d) One (1) column for the recorded Metered Amounts for each Term Year; and
- (e) One (1) row for each one (1) hour period during the Term Year.

Seller shall also identify, on a worksheet labeled "Lost Output Hours" and organized in a manner similar to the Metered Amounts worksheet described above, all hours when the Generating Facility's Metered Amounts were reduced due to any of the conditions or occurrences enumerated in the definition of Lost Output.

3. Generating Facility Monthly Profiles.

Seller shall create a profile of the estimated Generating Facility's Metered Amounts during an average week of each month during the Term (the "Monthly Profile").

Monthly Profiles shall include the seven (7) day period beginning at midnight on Sunday and ending at midnight on the following Saturday. They shall have a total of 168 average

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hourly Metered Amount periods (i.e., 7 days times 24 hours per day equals 168 hourly periods).

Each Monthly Profile shall be created by averaging the Metered Amounts during the same one (1) hour interval of each day of the week within the month of the current Term Year and up to the three preceding Term Years, if available.

All hours during which the Generating Facility's Metered Amounts were reduced due to any of the conditions or occurrences enumerated in the definition of Lost Output must be removed from the Monthly Profile.

If a Monthly Profile is incomplete because of missing hourly averages or if more than one half (1/2) of the one (1) hour averages are calculated using less than three (3) hourly Metered Amounts, the Monthly Profile for that month shall be based upon a comparable winter season or summer season month, as appropriate, agreed upon by the Parties for the Term Year in which the Lost Output amount is being calculated.

All Term Year Monthly Profiles, for the same calendar month, shall be calculated on a worksheet dedicated to that month.

Worksheets shall be labeled "Jan Profile," "Feb Profile," etc. Each of the twelve (12) profile worksheets shall have one (1) column for the weekday, one (1) column for the time, one (1) column for each Term Year Monthly Profile and one (1) row for each of the one hundred sixty-eight (168) hourly periods.

Seller shall also create twelve (12) line charts, one for each calendar month, on dedicated worksheets formatted with the charts sized to fit on the worksheet. Each chart shall include one data series for each Term Year. Chart sheets shall be labeled "Jan Chart," "Feb Chart," etc.

4. Seller's Estimate of Lost Output.

Lost Output shall be estimated by Seller for all Term Years on one worksheet labeled "Lost Output Events".

The worksheet shall include:

- (a) One (1) column for the date;
- (b) One (1) column for the time;
- (c) One (1) column for the weekday;
- (d) One (1) column for Seller's Lost Output estimate for each Term Year; and
- (e) One (1) row for each one (1) hour period during the Term Year.

Seller's estimate of Lost Output, for any hour during which the Generating Facility was not offline due to any of the conditions or occurrences enumerated in the definition of Lost Output shall be equal to the Metered Amount average included in the Monthly Profile for the same hour, of the same weekday, of the month in the same Term Year in which the Lost Output Event occurred less any Metered Amounts during the hour.

Seller shall summarize its Lost Output calculation results on a one (1) worksheet that has one (1) column for the month, one (1) column for each Term Year and one (1) row for each calendar month. Seller's claim for Lost Output, at the end of any Term Year, shall be equal to the sum of the monthly Lost Output amounts, for the appropriate Term Year column, on this summary worksheet. This worksheet shall be labeled "Lost Output Summary."

SCE reserves the right to recalculate any Lost Output estimated by Seller.

*** End of EXHIBIT K ***

EXHIBIT K-4*Seller's Estimate of Lost Output****** SCE Comment: Geothermal only. *****

Lost Output, as used in Section 3.21, shall be estimated by Seller in accordance with the procedures described in this Exhibit K.

Seller shall (1) collect the measurement data and perform the engineering calculations specified below in one (1) or more Microsoft Excel Workbooks (the "Lost Output Workbook") provided in a form and naming convention approved by SCE and (2) electronically send the Lost Output Workbook to an address provided by SCE.

SCE shall have the right to verify all data by inspecting measurement instruments and reviewing Generating Facility Operating records.

Seller shall update the Lost Output Workbook each month and shall include the latest revision of the Lost Output Workbook with its monthly Lost Output Report.

1. Data Collection.

Seller shall record average hourly measurements for the following Generating Facility Operating parameters and geothermal fluid ("geofluid") working conditions.

Each parameter shall be input into a dedicated worksheet in the Lost Output Workbook which shall be arranged with one (1) column for each Term Year and one (1) row for each hour.

(a) Ambient Weather Conditions.

- (i) Wind speed in miles per hour;
- (ii) Wind direction in degrees measured clockwise from North;
- (iii) Wet bulb temperature in degrees Fahrenheit,
- (iv) Dry bulb temperature in degrees Fahrenheit; (Variable "t" below); and
- (v) Barometric pressure in inches Hga.

(b) Generating Facility Operating Data.

- (i) Metered Amounts in kWh, (Variable "A" below.);
- (ii) Sum of all geofluid mass flows at the wellhead in pounds per hour, (Variable "Q_o" below);
- (iii) Average geofluid temperature at the wellhead in degrees Fahrenheit;
- (iv) Average geofluid pressure at the wellhead in psia;
- (v) Average temperature of the lowest pressure steam separator drain fluid in degrees Fahrenheit;

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- (vi) Average geofluid temperature at the re-injection point in degrees Fahrenheit;
- (vii) Average geofluid pressure at the re-injection point in psia; and
- (viii) Average steam turbine condenser pressure in psia.

2. Utilization Factors.

(a) Calculation of Hourly Utilization Factors.

Seller shall determine the efficiency level at which the Generating Facility was able to convert the geofluid thermal energy into electric energy by calculating a utilization factor ("Utilization Factor") for each operating hour on a dedicated Worksheet organized in a manner similar to that described in Item 1.

Hourly Utilization Factors shall be calculated as the ratio of the Metered Amounts to the maximum net electric energy production that the Generating Facility could possibly produce from the energy in the geofluid when using wellhead conditions and atmospheric (sink) conditions ("Theoretical Maximum Output").

Utilization Factor is further defined in ASTM E 974-00 "Standard Guide for Specifying Thermal Performance of Geothermal Systems."

UTILIZATION FACTOR ("U") in percent = A_{meter} / B

Where: A_{meter} = Metered Amounts in kWh per hour.
(Item 1(b)(i) above.)

B = Theoretical Maximum Output in kWh per hour,
as defined in Item 2b below.

(b) Calculation of Hourly Theoretical Maximum Output.

THEORETICAL MAXIMUM OUTPUT (B) in kWh = $Q_o \times E_i \times F$

Where: Q_o = Sum of all wellhead mass flow rates in pounds per hour.
(Item 1(b)(ii) above.)

E_i = Ideal Specific Work available to the process within
natural bounds of the environment in Btu per pound, as defined
below in Item 2c.

F = Conversion factor equal to 1 kWh per 3413 Btu.

(c) Calculation of Ideal Specific Work.

The theoretical maximum amount of work that the Generating Facility could perform with the energy from the geofluid ("Ideal Specific Work") shall be calculated by using the following formula:

IDEAL SPECIFIC WORK (E_i) in Btu per pound = $(h_0 - h_a) - T_a(s_0 - s_a)$

Where:

The contents of this document are subject to restrictions on disclosure as set forth herein.

h_o, h_a = Geofluid enthalpies at the inlet and sink conditions, in Btu per pound.

s_o, s_a = Geofluid entropies at inlet and sink conditions, in Btu per pound degree Rankine.

T_a = Sink (atmosphere) absolute temperature in degrees Rankine (i.e., $1^\circ \text{ Rankine} = 1^\circ \text{ Fahrenheit} + 459^\circ$ or $T_a = t + 459^\circ$).

Seller shall incorporate the mechanical engineering references for determining enthalpy and entropy values into one (1) or more Lost Output Workbook tables and shall link these tables to the appropriate algorithms using Excel's lookup functions.

3. Data Summaries.

Seller shall summarize the data for each hourly recorded measurement and the results of the hourly calculations for Utilization Factor and Ideal Specific Work, in individual summary tables.

Each summary table shall be organized with:

- (a) One (1) column for each Term Year; and
- (b) One (1) row for each calculation result.

There shall be 288 rows for each year which shall correspond to the 288 calculations associated with determining an average 24 hour day for each of the 12 calendar months.

Seller shall also create one (1) graph for each table of values. Each graph shall include one (1) data series for each Term Year.

4. Data Analysis.

Seller shall derive a table with 288 average hourly values (i.e., one set of 24 average hourly values for each of the 12 calendar months.) which correlates the relationship between the wet bulb temperature in degrees Fahrenheit and Metered Amounts in kWh per hour for each average day of each month for each Term Year.

Seller also shall graph the table values on a dedicated Excel Worksheet that has one data series for each Term Year.

5. Calculation of Lost Output When Wellhead Data are Available.

If all required Generating Facility Operating data measurements have been accurately recorded in the Lost Output Workbook, Seller's claim for Lost Output shall be equal to the total of the hourly Lost Output values calculated in accordance with the following formula.

The hourly wellhead mass flow rates shall be based upon actual recorded measurements. The hourly Ideal Specific Work values shall be calculated using the hourly measurements of geofluid enthalpies (h_o, h_a) and entropies (s_o, s_a), and the atmospheric temperature (T_a).

The contents of this document are subject to restrictions on disclosure as set forth herein.

Each hourly Utilization Factors (U) shall be individually derived from the collected data by finding the closest historical match between the ambient temperatures and geofluid conditions.

HOURLY LOST OUTPUT

A_{Lost} in kWh per hour = $[U \times F \times Q_o \times E]$ - Metered Amounts or

$A_{\text{Lost}} = U \times F \times Q_o \times [(h_o - h_a) - T_a \times (s_o - s_a)]$ - Metered Amounts

TOTAL LOST OUTPUT (A_{Total}) in kWh = $\sum_{\text{First}}^{\text{Last}} A_{\text{Lost}}$

6. Calculation of Lost Output When Wellhead Data are *Not* Available.

If Seller believes that the geofluid collected data are unreliable because of a decline in the potential energy at the wellhead due to a Seller decision to throttle the geofluid flow rate during a period of Lost Output, Seller shall calculate its claim for Lost Output using the formula in Item 5 above and calculated amounts for hourly geofluid mass flow rates (Q_o), enthalpy (h_o) and entropy (s_o) values.

The calculated amounts for geofluid mass flow rate (Q_o), enthalpy values (h_o) and entropy values (s_o) shall be equal to the average values calculated for the one hundred forty-four (144) hour period that includes the seventy-two hour (72) period before the Lost Output period and the seventy-two (72) hour period that begins forty-eight (48) hours after the end of the Lost Output period.

7. Seller's Analysis of the Calculations Results.

Seller may submit an alternate set of calculations with its Lost Output claim along with a written description of why it believes that the results of the Lost Output calculations described above do not provide an accurate estimate of the Metered Amounts that the Generating Facility would have sold to SCE, but for the conditions listed in the definition of "Lost Output" set forth in Exhibit A.

8. SCE Review of Sellers Lost Output Calculations.

SCE shall not be obligated to accept either the Lost Output quantity estimated by Seller in accordance with the procedures outlined in this exhibit or estimated by Seller in accordance with some other method.

SCE shall have the right to review all of Seller's measured data and calculation results, to revise any or all of Seller's calculations or to develop its own calculations for estimating Seller's Lost Output.

If SCE does not accept Seller's estimate of its Lost Output, SCE shall provide Notice to Seller of its decision along with a copy of its calculations as soon as practicable.

*** End of EXHIBIT K ***

EXHIBIT L

Form of Letter of Credit

IRREVOCABLE NONTRANSFERABLE STANDBY LETTER OF CREDIT

Bank Reference Number: _____

Issuance Date:

Issuing Bank:

[insert bank name and address]

Applicant:

[insert applicant name and address]

Beneficiary:

Southern California Edison Company

2244 Walnut Grove Avenue

GO#1, Quad 2A

Rosemead, CA 91770

Attn: Manager of Risk Operations and Collateral Management

Available Amount: [insert amount and spell out]

Expiration Date: [insert date]

Ladies and Gentlemen:

_____ (the "Bank") hereby establishes this Irrevocable Nontransferable Standby Letter of Credit ("Letter of Credit") in favor of Southern California Edison Company, a California corporation (the "Beneficiary"), for the account of _____, a _____ corporation, also known as ID# _____ (the "Applicant"), for the amount stated above (the "Available Amount"), effective immediately.

This Letter of Credit shall be of no further force or effect at 5:00 p.m., California time on the expiration date stated above or, if such day is not a Business Day (as hereinafter defined), on the next Business Day (as may be extended pursuant to the terms of this Letter of Credit) (the "Expiration Date").

For the purpose hereof, "Business Day" shall mean any day other than:

The contents of this document are subject to restrictions on disclosure as set forth herein.

1. A Saturday or a Sunday,
2. A day on which banking institutions in the city of Los Angeles, California, are required or authorized by Law to remain closed, or
3. A day on which the payment system of the Federal Reserve System is not operational.

It is a condition of this Letter of Credit that the Expiration Date shall be automatically extended without amendment for one (1) year from the Expiration Date hereof or any future Expiration Date unless at least sixty (60) days prior to such Expiration Date, we send notice to you by certified mail or hand delivered courier, at the address stated below, that we elect not to extend this Letter of Credit for any such additional period.

Subject to the terms and conditions herein, funds under this Letter of Credit are available to Beneficiary by complying presentation on or before 5:00 p.m. California time, on or before the Expiration Date of the following:

1. A copy of this Letter of Credit and all amendments;
2. A copy of the Drawing Certificate in the form of Attachment "A" attached hereto and which forms an integral part hereof, duly completed and bearing the signature of an authorized representative of the Beneficiary signing as such; and
3. A copy of the Draft in the form of Attachment "B" attached hereto and which forms an integral part hereof, duly completed and bearing the signature of an authorized representative of the Beneficiary.

Drawings may also be presented by facsimile transmission ("Fax") to fax number [insert number] under telephone pre-advice to [insert number] or alternatively to [insert number]; provided that such Fax presentation is received on or before the Expiration Date on this instrument in accordance with the terms and conditions of this Letter of Credit. It is understood that any such Fax presentation shall be considered the sole operative instrument of drawing. In the event of presentation by Fax, the original documents should not also be presented.

Partial drawing of funds shall be permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance; provided, the Available Amount shall be reduced by the amount of each such drawing.

This Letter of Credit is not transferable or assignable. Any purported transfer or assignment shall be void and of no force or effect.

All correspondence and any drawings (other than those made by facsimile) hereunder are to be directed to [Bank address/contact].

RAP ID# [Number], [Seller's Name]

All notices to Beneficiary shall be in writing and are required to be sent by certified letter, overnight courier, or delivered in person to: Southern California Edison Company, Manager of Risk Operations and Collateral Management, 2244 Walnut Grove Avenue, GO1 Quad 2A, Rosemead, California 91770. Only notices to Beneficiary meeting the requirements of this paragraph shall be considered valid. Any notice to Beneficiary which is not in accordance with this paragraph shall be void and of no force or effect.

Banking charges shall be the sole responsibility of the Applicant.

This Letter of Credit sets forth in full our obligations and such obligations shall not in any way be modified, amended, amplified or limited by reference to any documents, instruments or agreements referred to herein, except only the attachment referred to herein; and any such reference shall not be deemed to incorporate by reference any document, instrument or agreement except for such attachment. Except in the case of an increase in the Available Amount or extension of the Expiration Date, this Letter of Credit may not be amended or modified without the Beneficiary's prior written consent.

The Bank engages with the Beneficiary that Beneficiary's drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to the Bank on or before the Expiration Date.

Except so far as otherwise stated, this Letter of Credit is subject to the International Standby Practices ISP98 (also known as ICC Publication No. 590), or revision currently in effect (the "ISP"). As to matters not covered by the ISP, the laws of the State of California, without regard to the principles of conflicts of laws thereunder, shall govern all matters with respect to this Letter of Credit.

AUTHORIZED SIGNATURE for Bank

By _____

Name: [print name]_____

Title: [print title]_____

The contents of this document are subject to restrictions on disclosure as set forth herein.

ATTACHMENT A

DRAWING CERTIFICATE

TO [ISSUING BANK NAME & ADDRESS]

IRREVOCABLE NONTRANSFERABLE STANDBY LETTER OF CREDIT
REFERENCE NUMBER: _____

DATE: _____

Southern California Edison Company (the "Beneficiary"), demands *[Issuing Bank Name]* (the "Bank") payment to the order of the Beneficiary the amount of U.S. \$_____ (_____ U.S. Dollars), drawn under the Letter of Credit referenced above (the "Letter of Credit"), for the following reason(s) [check applicable provision]:

[]A. An Event of Default, as defined in that certain *[insert agreement name]* between *[insert counterparty name]* or its successor (the "Counterparty") and Beneficiary, dated as of *[Date of Execution]* (as may be amended from time to time) (the "Agreement") with respect to the Counterparty has occurred and is continuing.

[]B. The Letter of Credit will expire in fewer than twenty (20) Business Days (as defined in the Agreement) from the date hereof, and the Counterparty or its successor has not provided Beneficiary alternative financial security acceptable to Beneficiary.

[]C. The Beneficiary is entitled to retain all or part of the Development Security (as defined in the Agreement).

Unless otherwise provided herein, capitalized terms which are used and not defined herein shall have the meaning given each such term in the Letter of Credit.

Authorized Signature for Beneficiary:

SOUTHERN CALIFORNIA EDISON COMPANY

By:

Name: [print name]

Title: [print title]

ATTACHMENT B

DRAFT

[INSERT DATE]

TO:

[ISSUING BANK NAME & ADDRESS]

PAY AT SIGHT TO THE ORDER OF SOUTHERN CALIFORNIA EDISON COMPANY (THE "BENEFICIARY") THE AMOUNT OF USD [INSERT AMOUNT] DRAWN UNDER [ISSUING BANK NAME] IRREVOCABLE NON-TRANSFERABLE STANDBY LETTER OF CREDIT NUMBER [INSERT NUMBER] ISSUED ON [INSERT DATE].

FUNDS PAID PURSUANT TO THE PROVISIONS OF THE LETTER OF CREDIT SHALL BE WIRE TRANSFERRED TO THE BENEFICIARY IN ACCORDANCE WITH THE FOLLOWING INSTRUCTIONS:

[INSERT WIRING INSTRUCTION]

AUTHORIZED SIGNATURE
SOUTHERN CALIFORNIA EDISON COMPANY

NAME: [PRINT NAME]

TITLE: [PRINT TITLE]

*** *End of EXHIBIT L* ***

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT M**FORM OF CONSENT TO COLLATERAL ASSIGNMENT AGREEMENT**

This Consent to Collateral Assignment Agreement (this “Consent”) is entered into among (i) Southern California Edison Company, a California corporation (“SCE”), (ii) [Name of Seller], a [Legal Status of Seller] (the “Project Company”), and (iii) [Name of Collateral Agent], a [Legal Status of Collateral Agent], as Collateral Agent for the secured parties under the Financing Documents referred to below (such secured parties together with their successors permitted under this Consent in such capacity, the “Secured Parties”, and, such agent, together with its successors in such capacity, the “Collateral Agent”). SCE, Project Company and Collateral Agent are hereinafter sometimes referred to individually as a “Party” and jointly as the “Parties”. Capitalized terms used but not otherwise defined in this Consent shall have the meanings ascribed to them in the Renewable Power Purchase Agreement (as defined below).

RECITALS

The Parties enter into this Consent with reference to the following facts:

- A. Project Company and SCE have entered into that certain Renewable Power Purchase Agreement, dated as of [Date] [List all amendments as contemplated by Section 3.4] (“Renewable Power Purchase Agreement”), pursuant to which Project Company will develop, construct, commission, test and operate a generating facility (the “Project”) and sell the Product to SCE, and SCE will purchase the Product from Project Company;
- B. As collateral for Project Company’s obligations under the Renewable Power Purchase Agreement, Project Company has agreed to provide to SCE certain collateral, which may include Performance Assurance and Security Interests and other collateral described in the Renewable Power Purchase Agreement (collectively, the “PPA Collateral”);
- C. Project Company has entered into that certain [Insert description of financing arrangements with Lender], dated as of [Date], among Project Company, the Lenders party thereto and the Collateral Agent (the “Financing Agreement”), pursuant to which, among other things, the Lenders have extended commitments to make loans to Project Company;
- D. As collateral security for Project Company’s obligations under the Financing Agreement and related agreements (collectively, the “Financing Documents”), Project Company has, among other things, assigned all of its right, title and interest in, to and under the Renewable Power Purchase Agreement and Project’s Company’s owners have pledged their ownership interest in Project Company (collectively, the “Assigned Interest”) to the Collateral Agent pursuant to the Financing Documents; and

The contents of this document are subject to restrictions on disclosure as set forth herein.

- E. It is a requirement under the Financing Agreement and the Renewable Power Purchase Agreement that SCE and the other Parties hereto shall have executed and delivered this Consent.

AGREEMENT

In consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereto hereby agree as follows:

SECTION 1. CONSENT TO ASSIGNMENT, ETC.

1.1 Consent and Agreement.

SCE hereby acknowledges:

- (a) notice of and consents to the assignment as collateral security to Collateral Agent, for the benefit of the Secured Parties, of the Assigned Interest; and
- (b) the right (but not the obligation) of Collateral Agent in the exercise of its rights and remedies under the Financing Documents, to make all demands, give all notices, take all actions and exercise all rights of Project Company permitted under the Renewable Power Purchase Agreement (subject to SCE's rights and defenses under the Renewable Power Purchase Agreement and the terms of this Consent) and accepts any such exercise; provided, however, that, insofar as the Collateral Agent exercises any such rights under the Renewable Power Purchase Agreement or makes any claims with respect to payments or other obligations under the Renewable Power Purchase Agreement, the terms and conditions of the Renewable Power Purchase Agreement applicable to such exercise of rights or claims shall apply to Collateral Agent to the same extent as to Project Company.

1.2 Project Company's Acknowledgement.

Each of Project Company and Collateral Agent hereby acknowledges and agrees that SCE is authorized to act in accordance with Collateral Agent's instructions, and that SCE shall bear no liability to Project Company or Collateral Agent in connection therewith, including any liability for failing to act in accordance with Project Company's instructions.

1.3 Right to Cure.

The contents of this document are subject to restrictions on disclosure as set forth herein.

If Project Company defaults in the performance of any of its obligations under the Renewable Power Purchase Agreement, or upon the occurrence or non-occurrence of any event or condition under the Renewable Power Purchase Agreement which would immediately or with the passage of any applicable grace period or the giving of notice, or both, enable SCE to terminate or suspend its performance under the Renewable Power Purchase Agreement [or foreclose on its Junior Lien] (a “Renewable Power Purchase Agreement Default”), SCE will not terminate or suspend its performance under the Renewable Power Purchase Agreement until it first gives written notice of such Renewable Power Purchase Agreement Default to Collateral Agent and affords Collateral Agent the right to cure such Renewable Power Purchase Agreement Default within the applicable cure period under the Renewable Power Purchase Agreement, which cure period shall run concurrently with that afforded Project Company under the Renewable Power Purchase Agreement. In addition, if Collateral Agent gives SCE written notice prior to the expiration of the applicable cure period under the Renewable Power Purchase Agreement of Collateral Agent’s intention to cure such Renewable Power Purchase Agreement Default (which notice shall include a reasonable description of the time during which it anticipates to cure such Renewable Power Purchase Agreement Default) and is diligently proceeding to cure such Renewable Power Purchase Agreement Default, notwithstanding the applicable cure period under the Renewable Power Purchase Agreement, Collateral Agent shall have a period of sixty (60) days (or, if such Renewable Power Purchase Agreement Default is for failure by the Project Company to pay an amount to SCE which is due and payable under the Renewable Power Purchase Agreement other than to provide PPA Collateral, thirty (30) days, or, if such Renewable Power Purchase Agreement Default is for failure by Project Company to provide PPA Collateral, [__ (__) Business Days) from the Collateral Agent’s receipt of the notice of such Renewable Power Purchase Agreement Default from SCE to cure such Renewable Power Purchase Agreement Default; provided, however, that (a) if possession of the Project is necessary to cure any such non-monetary Renewable Power Purchase Agreement Default and Collateral Agent has commenced foreclosure proceedings within sixty (60) days after notice of the Renewable Power Purchase Agreement Default and is diligently pursuing such foreclosure proceedings, Collateral Agent will be allowed a reasonable time, not to exceed one hundred eighty (180) days after the notice of the Renewable Power Purchase Agreement Default, to complete such proceedings and cure such Renewable Power Purchase Agreement Default, and (b) if Collateral Agent is prohibited from curing any such Renewable Power Purchase Agreement Default by any process, stay or injunction issued by any Governmental Authority or pursuant to any bankruptcy or insolvency proceeding or other similar proceeding involving Project Company, then the time periods specified herein for curing a Renewable Power Purchase Agreement Default shall be extended for the period of such prohibition, so long as Collateral Agent has diligently pursued removal of such process, stay or injunction. Collateral Agent shall provide SCE with reports concerning the status of efforts to cure a Renewable Power Purchase Agreement Default upon SCE’s reasonable request.

1.4 Substitute Owner.

The contents of this document are subject to restrictions on disclosure as set forth herein.

Subject to Section 1.7, the Parties agree that if Collateral Agent notifies (such notice, a “Financing Document Default Notice”) SCE that an event of default has occurred and is continuing under the Financing Documents (a “Financing Document Event of Default”) then, upon a judicial foreclosure sale, non-judicial foreclosure sale, deed in lieu of foreclosure or other transfer following a Financing Document Event of Default, Collateral Agent (or its designee) shall be substituted for Project Company (the “Substitute Owner”) under the Renewable Power Purchase Agreement, and, subject to Sections 1.7(b) and 1.7(c) below, SCE and Substitute Owner will recognize each other as counterparties under the Renewable Power Purchase Agreement and will continue to perform their respective obligations (including those obligations accruing to SCE and the Project Company prior to the existence of the Substitute Owner) under the Renewable Power Purchase Agreement in favor of each other in accordance with the terms thereof; provided, however, that before SCE is required to recognize the Substitute Owner, the Substitute Owner must have demonstrated to SCE’s reasonable satisfaction that the Substitute Owner has financial qualifications and operating experience [TBD] (a “Permitted Transferee”). For purposes of the foregoing, SCE shall be entitled to assume that any such purported exercise of rights by Collateral Agent that results in substitution of a Substitute Owner under the Renewable Power Purchase Agreement is in accordance with the Financing Documents without independent investigation thereof but shall have the right to require that the Collateral Agent and its designee (if applicable) provide reasonable evidence demonstrating the same.

1.5 Replacement Agreements.

Subject to Section 1.7, if the Renewable Power Purchase Agreement is terminated, rejected or otherwise invalidated as a result of any bankruptcy, insolvency, reorganization or similar proceeding affecting Project Company, its owner(s) or guarantor(s), and if Collateral Agent or its designee directly or indirectly takes possession of, or title to, the Project (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure) (“Replacement Owner”), SCE shall, and Collateral Agent shall cause Replacement Owner to, enter into a new agreement with one another for the balance of the obligations under the Renewable Power Purchase Agreement remaining to be performed having terms substantially the same as the terms of the Renewable Power Purchase Agreement with respect to the remaining Term (“Replacement Renewable Power Purchase Agreement”); provided, that before SCE is required to enter into a Replacement Renewable Power Purchase Agreement, the Replacement Owner must have demonstrated to SCE’s reasonable satisfaction that the Replacement Owner satisfies the requirements of a Permitted Transferee. For purposes of the foregoing, SCE is entitled to assume that any such purported exercise of rights by Collateral Agent that results in a Replacement Owner is in accordance with the Financing Documents without independent investigation thereof but shall have the right to require that the Collateral Agent and its designee (if applicable) provide reasonable evidence demonstrating the same. Notwithstanding the execution and delivery of a Replacement Renewable Power Purchase Agreement, to the extent SCE is, or was otherwise prior to its termination as

described in this Section 1.5, entitled under the Renewable Power Purchase Agreement, SCE may suspend performance of its obligations under such Replacement Renewable Power Purchase Agreement, unless and until all Renewable Power Purchase Agreement Defaults of Project Company under the Renewable Power Purchase Agreement or Replacement Renewable Power Purchase Agreement have been cured.

1.6 Transfer.

Subject to Section 1.7, a Substitute Owner or a Replacement Owner may assign all of its interest in the Project and the Renewable Power Purchase Agreement and a Replacement Renewable Power Purchase Agreement to a natural person, corporation, trust, business trust, joint venture, joint stock company, association, company, limited liability company, partnership, Governmental Authority or other entity (a "Person") to which the Project is transferred; provided, however, that the proposed transferee shall have demonstrated to SCE's reasonable satisfaction that such proposed transferee satisfies the requirements of a Permitted Transferee.

1.7 Assumption of Obligations.

(a) Transferee.

Any transferee under Section 1.6 shall expressly assume in a writing reasonably satisfactory to SCE all of the obligations of Project Company, Substitute Owner or Replacement Owner under the Renewable Power Purchase Agreement or Replacement Renewable Power Purchase Agreement, as applicable, including posting and collateral assignment of the PPA Collateral. Upon such assignment and the cure of any outstanding Renewable Power Purchase Agreement Default, and payment of all other amounts due and payable to SCE in respect of the Renewable Power Purchase Agreement or such Replacement Renewable Power Purchase Agreement, the transferor shall be released from any further liability under the Renewable Power Purchase Agreement or Replacement Renewable Power Purchase Agreement, as applicable.

(b) Substitute Owner.

Subject to Section 1.7(c), any Substitute Owner pursuant to Section 1.4 shall be required to perform Project Company's obligations under the Renewable Power Purchase Agreement, including posting and collateral assignment of the PPA Collateral; provided, however, that the obligations of such Substitute Owner shall be no more than those of Project Company under the Renewable Power Purchase Agreement.

(c) No Liability.

SCE acknowledges and agrees that neither Collateral Agent nor any Secured Party shall have any liability or obligation under the Renewable Power Purchase Agreement as a result of this Consent (except to the extent Collateral Agent or a Secured Party is a Substitute Owner or Replacement Owner) nor shall Collateral Agent or any other Secured Party be obligated or required to (i) perform any of Project Company's obligations under the Renewable Power Purchase Agreement, except as provided in Sections 1.7(a) and 1.7(b) and to the extent Collateral Agent or a Secured Party is a Substitute Owner or Replacement Owner, or (ii) take any action to collect or enforce any claim for payment assigned under the Financing Documents. If Collateral Agent becomes a Substitute Owner pursuant to Section 1.4 or enters into a Replacement Renewable Power Purchase Agreement, Collateral Agent shall not have any personal liability to SCE under the Renewable Power Purchase Agreement or Replacement Renewable Power Purchase Agreement and the sole recourse of SCE in seeking enforcement of such obligations against Collateral Agent shall be to the aggregate interest of the Secured Parties in the Project; provided, however, that such limited recourse shall not limit SCE's right to seek equitable or injunctive relief against Collateral Agent, or SCE's rights with respect to any offset rights expressly allowed under the Renewable Power Purchase Agreement, a Replacement Renewable Power Purchase Agreement or the PPA Collateral.

1.8 Delivery of Notices.

SCE shall deliver to Collateral Agent, concurrently with the delivery thereof to Project Company, a copy of each notice, request or demand given by SCE to Project Company pursuant to the Renewable Power Purchase Agreement relating to (a) a Renewable Power Purchase Agreement Default by Project Company under the Renewable Power Purchase Agreement, (b) any claim regarding Force Majeure by SCE under the Renewable Power Purchase Agreement, (c) any notice of dispute under the Renewable Power Purchase Agreement, (d) any notice of intent to terminate or any termination notice, and (e) any matter that would require the consent of Collateral Agent pursuant to Section 1.11 or any other provision of this Consent. Collateral Agent acknowledges that delivery of such notice, request and demand shall satisfy SCE's obligation to give Collateral Agent a notice of Renewable Power Purchase Agreement Default under Section 1.3. Collateral Agent shall deliver to SCE, concurrently with delivery thereof to Project Company, a copy of each notice, request or demand given by Collateral Agent to Project Company pursuant to the Financing Documents relating to a default by Project Company under the Financing Documents.

1.9 Confirmations.

SCE will, as and when reasonably requested by Collateral Agent from time to time, confirm in writing matters relating to the Renewable Power Purchase Agreement (including the performance of same by Project Company); provided, however, that such confirmation may be limited to matters of which SCE is aware as of the time the confirmation is given and such confirmations shall be without prejudice to any rights of

SCE under the Renewable Power Purchase Agreement as between SCE and Project Company.

1.10 Exclusivity of Dealings.

Except as provided in Sections 1.3, 1.4, 1.8, 1.9 and 2.1, unless and until SCE receives a Financing Document Default Notice, SCE shall deal exclusively with Project Company in connection with the performance of SCE's obligations under the Renewable Power Purchase Agreement. From and after such time as SCE receives a Financing Document Default Notice and until a Substitute Owner is substituted for Project Company pursuant to Section 1.4, a Replacement Renewable Power Purchase Agreement is entered into or the Renewable Power Purchase Agreement is transferred to a Person to whom the Project is transferred pursuant to Section 1.6, SCE shall, until Collateral Agent confirms to SCE in writing that all obligations under the Financing Documents are no longer outstanding, deal exclusively with Collateral Agent in connection with the performance of SCE's obligations under the Renewable Power Purchase Agreement, and SCE may irrevocably rely on instructions provided by Collateral Agent in accordance therewith to the exclusion of those provided by any other Person.

1.11 No Amendments.

To the extent permitted by Applicable Laws, SCE agrees that it will not, without the prior written consent of Collateral Agent (not to be unreasonably withheld, delayed or conditioned) (a) enter into any material supplement, restatement, novation, extension, amendment or modification of the Renewable Power Purchase Agreement (b) terminate or suspend its performance under the Renewable Power Purchase Agreement (except in accordance with Section 1.3) or (c) consent to or accept any termination or cancellation of the Renewable Power Purchase Agreement by Project Company.

SECTION 2. PAYMENTS UNDER THE RENEWABLE POWER PURCHASE AGREEMENT

2.1 Payments.

Unless and until SCE receives written notice to the contrary from Collateral Agent, SCE will make all payments to be made by it to Project Company under or by reason of the Renewable Power Purchase Agreement directly to Project Company. SCE, Project Company, and Collateral Agent acknowledge that SCE will be deemed to be in compliance with the payment terms of the Renewable Power Purchase Agreement to the extent that SCE makes payments in accordance with Collateral Agent's instructions.

2.2 No Offset, Etc.

All payments required to be made by SCE under the Renewable Power Purchase Agreement shall be made without any offset, recoupment, abatement, withholding, reduction or defense whatsoever, other than that expressly allowed by the terms of the Renewable Power Purchase Agreement.

SECTION 3. REPRESENTATIONS AND WARRANTIES OF SCE

SCE makes the following representations and warranties as of the date hereof in favor of Collateral Agent:

3.1 Organization.

SCE is a corporation duly organized and validly existing under the laws of the state of its incorporation, and is duly qualified, authorized to do business and in good standing in every jurisdiction in which it owns or leases real property or in which the nature of its business requires it to be so qualified, except where the failure to so qualify would not have a material adverse effect on its financial condition, its ability to own its properties or its ability to transact its business. SCE has all requisite power and authority, corporate and otherwise, to enter into and to perform its obligations hereunder and under the Renewable Power Purchase Agreement, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby.

3.2 Authorization.

The execution, delivery and performance by SCE of this Consent and the Renewable Power Purchase Agreement have been duly authorized by all necessary corporate or other action on the part of SCE and do not require any approval or consent of any holder (or any trustee for any holder) of any indebtedness or other obligation of SCE which, if not obtained, will prevent SCE from performing its obligations hereunder or under the Renewable Power Purchase Agreement except approvals or consents which have previously been obtained and which are in full force and effect.

3.3 Execution and Delivery; Binding Agreements.

Each of this Consent and the Renewable Power Purchase Agreement is in full force and effect, have been duly executed and delivered on behalf of SCE by the appropriate officers of SCE, and constitute the legal, valid and binding obligation of SCE, enforceable against SCE in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

3.4 No Default or Amendment.

Except as set forth in Schedule A attached hereto: (a) Neither SCE nor, to SCE's actual knowledge, Project Company, is in default of any of its obligations under the Renewable Power Purchase Agreement; (b) SCE and, to SCE's actual knowledge, Project Company, has complied with all conditions precedent to the effectiveness of its obligations under the Renewable Power Purchase Agreement; (c) to SCE's actual knowledge, no event or condition exists which would either immediately or with the passage of any applicable grace period or giving of notice, or both, enable either SCE or Project Company to terminate or suspend its obligations under the Renewable Power Purchase Agreement; and (d) the Renewable Power Purchase Agreement has not been amended, modified or supplemented in any manner except as set forth herein and in the recitals hereto.

3.5 No Previous Assignments.

SCE has no notice of, and has not consented to, any previous assignment by Project Company of all or any part of its rights under the Renewable Power Purchase Agreement, except as previously disclosed in writing and consented to by SCE.

SECTION 4. REPRESENTATIONS AND WARRANTIES OF PROJECT COMPANY

Project Company makes the following representations and warranties as of the date hereof in favor of the Collateral Agent and SCE:

4.1 Organization.

Project Company is a [Legal Status of Seller] duly organized and validly existing under the laws of the state of its organization, and is duly qualified, authorized to do business and in good standing in every jurisdiction in which it owns or leases real property or in which the nature of its business requires it to be so qualified, except where the failure to so qualify would not have a material adverse effect on its financial condition, its ability to own its properties or its ability to transact its business. Project Company has all requisite power and authority, corporate and otherwise, to enter into and to perform its obligations hereunder and under the Renewable Power Purchase Agreement, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby.

4.2 Authorization.

The execution, delivery and performance of this Consent by Project Company, and Project Company's assignment of its right, title and interest in, to and under the Renewable Power Purchase Agreement to the Collateral Agent pursuant to the Financing Documents, have been duly authorized by all necessary corporate or other action on the part of Project Company.

4.3 Execution and Delivery; Binding Agreement.

This Consent is in full force and effect, has been duly executed and delivered on behalf of Project Company by the appropriate officers of Project Company, and constitutes the legal, valid and binding obligation of Project Company, enforceable against Project Company in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

4.4 No Default or Amendment.

Except as set forth in Schedule B attached hereto: (a) neither Project Company nor, to Project Company's actual knowledge, SCE, is in default of any of its obligations thereunder; (b) Project Company and, to Project Company's actual knowledge, SCE, has complied with all conditions precedent to the effectiveness of its obligations under the Renewable Power Purchase Agreement; (c) to Project Company's actual knowledge, no event or condition exists which would either immediately or with the passage of any applicable grace period or giving of notice, or both, enable either SCE or Project Company to terminate or suspend its obligations under the Renewable Power Purchase Agreement; and (d) the Renewable Power Purchase Agreement has not been amended, modified or supplemented in any manner except as set forth herein and in the recitals hereto.

4.5 No Previous Assignments.

Project Company has not previously assigned all or any part of its rights under the Renewable Power Purchase Agreement.

SECTION 5. REPRESENTATIONS AND WARRANTIES OF COLLATERAL AGENT

Collateral Agent makes the following representations and warranties as of the date hereof in favor of SCE and Project Company:

5.1 Authorization.

The execution, delivery and performance of this Consent by Collateral Agent have been duly authorized by all necessary corporate or other action on the part of Collateral Agent and Secured Parties.

5.2 Execution and Delivery; Binding Agreement.

The contents of this document are subject to restrictions on disclosure as set forth herein.

This Consent is in full force and effect, has been duly executed and delivered on behalf of Collateral Agent by the appropriate officers of Collateral Agent, and constitutes the legal, valid and binding obligation of Collateral Agent as Collateral Agent for the Secured Parties, enforceable against Collateral Agent (and the Secured Parties to the extent applicable) in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

SECTION 6. MISCELLANEOUS

6.1 Notices.

All notices and other communications hereunder shall be in writing, shall be deemed given upon receipt thereof by the Party or Parties to whom such notice is addressed, shall refer on their face to the Renewable Power Purchase Agreement (although failure to so refer shall not render any such notice or communication ineffective), shall be sent by first class mail, by personal delivery or by a nationally recognized courier service, and shall be directed (a) if to SCE or Project Company, in accordance with *[Notice Section of the Renewable Power Purchase Agreement]* of the Renewable Power Purchase Agreement, (b) if to Collateral Agent, to *[Collateral Agent Name]*, *[Collateral Agent Address]*, Attn: *[Collateral Agent Contact Information]*, Telephone: *[]*, Fax: *[]*, and (c) to such other address or addressee as any such Party may designate by notice given pursuant hereto.

6.2 Governing Law; Submission to Jurisdiction.

(a) THIS CONSENT SHALL BE CONSTRUED IN ACCORDANCE WITH, AND THIS CONSENT AND ALL MATTERS ARISING OUT OF THIS CONSENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE GOVERNED BY, THE LAW OF THE STATE OF CALIFORNIA WITHOUT REGARD TO ANY CONFLICTS OF LAWS PROVISIONS THEREOF THAT WOULD RESULT IN THE APPLICATION OF THE LAW OF ANOTHER JURISDICTION. *[This Section will be modified, if necessary, to match the Governing Law Section of the Renewable Power Purchase Agreement.]*

(b) All disputes, claims or controversies arising out of, relating to, concerning or pertaining to the terms of this Consent shall be governed by the dispute resolution provisions of the Renewable Power Purchase Agreement. Subject to the foregoing, any legal action or proceeding with respect to this Consent and any action for enforcement of any judgment in respect thereof may be brought in the courts of the State of California or

of the United States of America for the Central District of California, and, by execution and delivery of this Consent, each Party hereby accepts for itself and in respect of its property, generally and unconditionally, the non-exclusive jurisdiction of the aforesaid courts and appellate courts from any appeal thereof. Each Party further irrevocably consents to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to its notice address provided pursuant to Section 6.1 hereof. Each Party hereby irrevocably waives any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions or proceedings arising out of or in connection with this Consent brought in the courts referred to above and hereby further irrevocably waives and agrees not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum. Nothing herein shall affect the right of any Party to serve process in any other manner permitted by law.

6.3 Headings Descriptive.

The headings of the several sections and subsections of this Consent are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Consent.

6.4 Severability.

In case any provision in or obligation under this Consent shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

6.5 Amendment, Waiver.

Neither this Consent nor any of the terms hereof may (a) be terminated, amended, supplemented or modified, except by an instrument in writing signed by SCE, Project Company and Collateral Agent or (b) waived, except by an instrument in writing signed by the waiving Party.

6.6 Termination.

Each Party's obligations hereunder are absolute and unconditional, and no Party has any right, and shall have no right, to terminate this Consent or to be released, relieved or discharged from any obligation or liability hereunder until SCE has been notified by Collateral Agent that all of the obligations under the Financing Documents shall have been satisfied in full (other than contingent indemnification obligations) or, with respect to the Renewable Power Purchase Agreement or any Replacement Renewable Power

Purchase Agreement, its obligations under such Renewable Power Purchase Agreement or Replacement Renewable Power Purchase Agreement have been fully performed.

6.7 Successors and Assigns.

This Consent shall be binding upon each Party and its successors and assigns permitted under and in accordance with this Consent, and shall inure to the benefit of the other Parties and their respective successors and assignee permitted under and in accordance with this Consent. Each reference to a Person herein shall include such Person's successors and assigns permitted under and in accordance with this Consent.

6.8 Further Assurances.

SCE hereby agrees to execute and deliver all such instruments and take all such action as may be necessary to effectuate fully the purposes of this Consent.

6.9 Waiver of Trial by Jury.

TO THE EXTENT PERMITTED BY APPLICABLE LAWS, THE PARTIES HEREBY IRREVOCABLY WAIVE ALL RIGHT OF TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN CONNECTION WITH THIS CONSENT OR ANY MATTER ARISING HEREUNDER. EACH PARTY FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

6.10 Entire Agreement.

This Consent and any agreement, document or instrument attached hereto or referred to herein integrate all the terms and conditions mentioned herein or incidental hereto and supersede all oral negotiations and prior writings in respect to the subject matter hereof. In the event of any conflict between the terms, conditions and provisions of this Consent and any such agreement, document or instrument, the terms, conditions and provisions of this Consent shall prevail.

6.11 Effective Date.

This Consent shall be deemed effective as of the date upon which the last Party executes this Consent.

6.12 Counterparts; Electronic Signatures.

The contents of this document are subject to restrictions on disclosure as set forth herein.

This Consent may be executed in one or more counterparts, each of which will be deemed to be an original of this Consent and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Consent and of signature pages by facsimile transmission, Portable Document Format (i.e., PDF), or by other electronic means shall constitute effective execution and delivery of this Consent as to the Parties and may be used in lieu of the original Consent for all purposes.

[Remainder of Page Left Intentionally Blank.]

RAP ID# [Number], [Seller's Name]

IN WITNESS WHEREOF, the Parties hereto have caused this Consent to be duly executed and delivered by their duly authorized officers on the dates indicated below their respective signatures.

<p>[NAME OF PROJECT COMPANY], [Legal Status of Project Company].</p>		<p>SOUTHERN CALIFORNIA EDISON COMPANY, a California corporation.</p>
<p>By: _____ [Name] [Title] Date: _____</p>		<p>By: _____ [Name] [Title] Date: _____</p>
<p>[NAME OF COLLATERAL AGENT], [Legal Status of Collateral Agent]. By: _____ [Name] [Title] Date: _____</p>		

The contents of this document are subject to restrictions on disclosure as set forth herein.

SCHEDULE A

[Describe any disclosures relevant to representations and warranties made in Section 3.4]

EXHIBIT N-1*SCE Penalties and CAISO Sanctions****** SCE Comment: Intermittent only*****

Seller is liable for SCE Penalties and CAISO Sanctions under the circumstances described in this Exhibit N.

1. Determining Seller's Liability for SCE Penalties.

If in any hour of any month in the Delivery Term Seller fails to comply with its Forecasting requirements under Exhibit D of this Agreement with respect to Seller's Forecast of available capacity only, and the sum of Energy Deviations for each of the Settlement Intervals in that hour exceed the Performance Tolerance Band described in Paragraph 2 of this Exhibit, then Seller is liable for an SCE Penalty equal to one hundred fifty percent (150%) of the Product Price in Section 1.05(a) for each MWh of Energy Deviation, or any portion thereof, in that hour.

2. Performance Tolerance Band.

The "Performance Tolerance Band," in kWh, is equal to:

- (a) Three percent (3%) times
- (b) Contract Capacity times
- (c) One (1) hour, i.e., the interval of time for monitoring Forecasting requirements.

3. Seller's Liability for CAISO Sanctions.

Seller must reimburse SCE for all CAISO Sanctions incurred by SCE as a result of Seller's failure to adhere to its obligations under the CAISO Tariff or any CAISO directive, as such directive may be communicated to Seller by SCE, or as set forth in Sections 3.12(g) and 4.01(e).

4. Billing and Documentation of CAISO Sanctions.

- (a) The CAISO Sanctions will be available for billing approximately one hundred twenty (120) days following the last day of the calendar month in which the event giving rise to the sanction occurs, or thirty (30) days after the CAISO final settlement data is available to SCE, whichever is sooner.
- (b) SCE shall provide to Seller the applicable back-up data used for validating CAISO Sanctions.

***** End of EXHIBIT N *****

EXHIBIT N-2

CAISO Costs and CAISO Sanctions

***** SCE Comment: Baseload only*****

Seller is liable for CAISO Costs and CAISO Sanctions under the circumstances described in this Exhibit N.

1. Determining Applicability of CAISO Costs.

Seller shall be responsible for all CAISO Costs (a) for all Settlement Intervals where Energy Deviations exceed the Performance Tolerance Band and (b) as set forth in Section 1.05(c)(ii).

2. Performance Tolerance Band.

The "Performance Tolerance Band" will equal the quantity in any Settlement Interval, in kWh, that is the product of:

- (a) Three percent (3%) times
- (b) Contract Capacity divided by
- (c) The number of Settlement Intervals in the hour.

3. Seller's Liability for CAISO Sanctions.

Seller will be liable to reimburse SCE for all CAISO Sanctions incurred by SCE as a result of Seller's failure to adhere to its obligations under the CAISO Tariff or any CAISO directive, as such directive may be communicated to Seller by SCE, or as set forth in Sections 3.12.(g) and 4.01(e).

4. Billing and Documentation of CAISO Costs and CAISO Sanctions.

- (a) The CAISO Costs and CAISO Sanctions will be available for billing approximately one hundred twenty (120) days following the last day of a calendar month in which the event giving rise to the sanction occurs, or thirty (30) days after the CAISO final settlement data is available to SCE, whichever is sooner.
- (b) SCE shall provide to Seller the applicable back-up data used for validating CAISO Costs and CAISO Sanctions.

***** End of EXHIBIT N *****

EXHIBIT O

Actual Availability Report

Pursuant to Section 3.22, Seller shall prepare an Actual Availability Report in accordance with the procedures described in this Exhibit O.

1. Availability Workbook.

Seller shall:

- (a) Collect the measurement data, listed in Item 2 below, in one (1) or more Microsoft Excel Workbooks (the "Availability Workbook") provided in a form and naming convention approved by SCE; and
- (b) Electronically send the Availability Workbook to an address provided by SCE.

The Actual Availability Report must reflect the Actual Available Capacity as measured by Seller's SCADA equipment.

2. Log of Availability.

The Availability Workbook must be created on a single, dedicated worksheet and shall be in the form of Attachment 1 to this Exhibit O.

The data presented in the Availability Workbook must not reflect any electric energy losses between the CAISO Approved Meter or Check Meter and the Delivery Point.

ATTACHMENT 1
Actual Availability Report

*** End of EXHIBIT O ***

Actual Availability Report

EXHIBIT P-1*Meteorological Station Specifications****** SCE Comment: Wind only. *****

Pursuant to Section 3.08(f), Seller shall install and maintain a minimum of the greater of (i) one (1) stand-alone meteorological equipment station for each fifty (50) MWs (or portion thereof) of nameplate capacity installed at the Generating Facility or (ii) one (1) stand-alone meteorological equipment station for each [number] miles {SCE Comment: To be determined based on site plan} (or portion thereof) of the Site. Each station shall be equipped with instruments and equipment that meet or exceed those specifications set forth in the CAISO's PIRP/EIRP protocol and are compatible with the requirements of SCE. SCE and Seller acknowledge that SCE may update this Exhibit P from time to time in order to accommodate industry standards, the CAISO PIRP/EIRP protocol and the needs of SCE.

SCE and Seller shall develop the technical specifications for meteorological stations, which will meet these basic requirements.

Seller shall maintain the meteorological station in accordance with Prudent Electrical Practices. Seller shall perform yearly calibrations of all instruments.

1. Equipment Stations.

- (a) The equipment stations shall be comprised of the following:
 - (i) Two (2) heated wind sensors;
 - (ii) Two (2) air temperature sensors; and
 - (iii) One (1) barometric pressure sensor (with DCP sensor).
- (b) The wind sensors and air temperature sensors shall be set at two (2) height locations from ground level:
 - (i) One wind sensor and one temperature sensor shall be set at the height that represents the lowest blade tip when positioned at a ninety degree (90°) angle with the ground; and
 - (ii) One wind sensor and one temperature sensor shall be set at the height that represents the hub center of the turbines.

2. Attributes of Equipment Station Locations.

The equipment station location(s) should be unencumbered by tower shadow or other equipment. If an equipment station tower is being placed on the Site, the tower is to be placed in front of generating turbines on the upwind side of the wind park, as determined by the wind rose. The second station is best placed at the rear of the park as determined by the wind rose.

3. Communication.

Seller shall communicate meteorological data to SCE via a system consistent with SCE's employed methods at the time of installation.

4. Equipment Requirements.

SCE currently requires equipment with quality levels and compatibility and functional specifications that meet or exceed those of the equipment set forth below in this Item 4. Any equipment different from that listed below must have the approval of SCE before installation at the Site.

(a) MAWS301 AWS System.

- (i) MAWS301 Basic Assembly for MAWS301 Automatic Weather Station, including following modules and functions:
 - QML201 AWS Logger with 1.7 MB Flash memory for data logging
 - QBR101B Battery regulator
 - ENC542PLM Equipment enclosure with backup battery mounting accessories and internal wiring
 - Bottom plate with signal connectors for sensors and peripheral equipment
 - MAWS LIZARD Set-up software
 - MAWS Terminal software
- (ii) ENC542SHIELD Radiation Shield for MAWS301 enclosure
- (iii) QMZ101 Terminal/maintenance cable for MAWS
- (iv) QMBATT12 Back-up battery - 12 Ah/12V, installed in MAWS enclosure, includes wiring

(b) Sensors.

- (i) QMT110 or HMT 330 Series Air temperature sensor with 10 m cable and connector
 - DTR502P22 or DRT503 Radiation shield for QMT110 (air temp sensor) including mounting accessories to a pole/mast (60-100 mm)
- (ii) QMT103 or HMP Air temperature sensor with 5-m cable and connector
 - 212417 Extension cables, 25m, shielded, 5-pin F-M connector for QMT103 sensor
 - DTR502P22 or DRT503 Radiation shield for QMT103 (air temp sensor) including mounting accessories to a pole/mast (60-100 mm)

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (iii) PMT16A Barometric pressure sensor installed within the MAWS301 enclosure
- (iv) W5425, WMT52, or WMT700 Series Heated Ultrasonic Wind Sensor with RS485 & power output cable, sensor mounting on 60 mm diameter pole/mast and 36 VDC power supply
- (c) Powering.
Mains (AC) power supply, installed in enclosure (ENC542PLM), including wiring and surge arrestors for 115 VAC
- (d) Communication.
 - (i) DSI485ASET48-M3 Isolated RS-485 module - 2 wire connection, including extra surge arrestors for both lines, installed in MAWS enclosure communications from logger to W5425, WMT52, or WMT700 Series sensors
 - (ii) DME421-M3 Ethernet interface serial port to VSAT transmitter. Module mounted within MAWS enclosure (if needed)
 - (iii) VSAT Hardware, VSAT transmitter, cables with connectors, testing of each site, antenna positioners, mounting hardware. Installation at each site should include program fee for VSAT module

The satellite communication requires an unencumbered south-by-southwest view of the sky for antenna placement. Weather station data will be transmitted to SCE consistent with the industry standard practices at the time of installation.
- (e) Install Accessories.
 - (i) APPK-60SET Mast mounting for MAWS enclosure on a 50-60 mm diameter pole/mast/tower
 - (ii) WSP Surge Arrestor for QMT103/110 Temp sensor lines (4-wire)
 - (iii) #010411 Shielded RS485 cabling from MAWS301 to W5425, WMT52, or WMT700 Series sensor
 - (iv) WSP Surge Arrestor for RS485 lines, wind sensors at 10m
 - (v) WS425STDH-SPEC-30m Shielded RS485 cabling from MAWS301 to W5425, WMT52, or WMT700 Series sensors - 30m cables
 - (vi) WSP Surge Arrestor for RS485 lines, wind sensors at 30m

*** End of EXHIBIT P ***

EXHIBIT P-2a*Meteorological Station Specifications****** SCE Comment: Solar Thermal only. *****

Pursuant to Section 3.08(f), Seller shall install and maintain a minimum of one (1) stand-alone meteorological equipment station for each one (1) square mile (or portion thereof) of the Site. Each station shall be equipped with instruments and equipment that meet or exceed those specifications set forth in the CAISO's PIRP/EIRP protocol and are compatible with the requirements of SCE. SCE and Seller acknowledge that SCE may update this Exhibit P from time to time in order to accommodate industry standards, the CAISO PIRP/EIRP protocol and the needs of SCE.

SCE and Seller shall develop the technical specifications for meteorological stations, which will meet these basic requirements.

Seller shall maintain the meteorological station in accordance with Prudent Electrical Practices and equipment specifications. Seller shall perform yearly calibrations of all instruments. In addition, any solar irradiance sensor must be cleaned weekly or after storm events, following manufacturers recommended cleaning procedures.

1. Equipment Stations.

(a) The equipment stations shall be comprised of the following:

- (i) One (1) heated wind sensor;
- (ii) One (1) air temperature sensor;
- (iii) One (1) relative humidity sensor;
- (iv) One (1) barometric pressure sensor (with DCP sensor);
- (v) One (1) direct normal irradiance sensor operated to track the sun;
- (vi) One (1) total global radiation sensor horizontal to the ground plane (only 1 such sensor shall be required under this Agreement); and
- (vii) One (1) diffuse radiation sensor (only 1 such sensor shall be required under this Agreement).

(b) In addition, Seller shall report:

- (i) Solar altitude angle;
- (ii) Solar azimuth angle; and
- (iii) Precipitation.

(c) All sensors shall be set at a height location representing the height from ground level of the solar collection point, for example, two (2) meters above ground level.

3. Attributes of Equipment Station Locations.

The contents of this document are subject to restrictions on disclosure as set forth herein.

The equipment station location(s) should be unencumbered by any shadow or equipment. The equipment station tower is to be placed in front of the solar collectors on the southern side of the Site. In addition, the station's satellite communication transmitter requires an unencumbered south-by-south west view of the sky for antenna placement.

4. Communication.

Seller shall communicate meteorological data to SCE via a system consistent with SCE's employed methods at the time of installation. The equipment installed will need to be approved by SCE.

The satellite communication requires an unencumbered south-by-southwest view of the sky for antenna placement. Weather station data will be transmitted to SCE consistent with the industry standard practices at the time of installation.

5. Equipment Requirements.

SCE currently requires equipment with quality levels, compatibility and functional specifications that meet or exceed those of the equipment set forth below in this Item 5. Any equipment different from that listed below must have the approval of SCE before installation at the Site.

(a) MAWS301 AWS System.

- (i) MAWS301 Basic Assembly for MAWS301 Automatic Weather Station, including following modules and functions:
 - QML201 AWS Logger with 1.7 MB Flash memory for data logging
 - QBR101B Battery regulator
 - ENC542PLM Equipment enclosure with backup battery mounting accessories and internal wiring
 - Bottom plate with signal connectors for sensors and peripheral equipment
 - MAWS LIZARD Set-up software
 - MAWS Terminal software
- (ii) ENC542SHIELD Radiation Shield for MAWS301 enclosure
- (iii) QMZ101 Terminal/maintenance cable for MAWS
- (iv) QMBATT12 Back-up battery - 12 Ah/12V, installed in MAWS enclosure, includes wiring

(b) Sensors.

- (i) QMT110 Air temperature sensor with 10 m cable and connector
 - DTR502P22 Radiation shield for QMT110 (air temp sensor) including mounting accessories to a pole/mast (60-100 mm)

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (ii) QMT103 Air temperature sensor with 5-m cable and connector
 - 212417 Extension cables, 25m, shielded, 5-pin F-M connector for QMT103 sensor
 - DTR502P22 Radiation shield for QMT103 (air temp sensor) including mounting accessories to a pole/mast (60-100 mm)
- (iii) PMT16A Barometric pressure sensor installed within the MAWS301 enclosure
- (iv) M301-WS425STDH Heated Ultrasonic Wind Sensor with RS485 & power output cable, sensor mounting on 60 mm diameter pole/mast and 36 VDC power supply
- (v) HMT 100 humidity and temperature sensor
- (vi) Eppley Labs Model NIP pyroheliometer with solar tracker
- (c) Powering.

MCP150-M3-115 Mains (AC) power supply, installed in enclosure (ENC542PLM), including wiring and surge arrestors for 115 VAC
- (d) Communication.
 - (i) DSI485ASET48-M3 Isolated RS-485 module - 2 wire connection, including extra surge arrestors for both lines, installed in MAWS enclosure communications from logger to WS425 sensors
 - (ii) DME421-M3 Ethernet interface serial port to VSAT transmitter. Module mounted within MAWS enclosure
 - (iii) VSAT Hardware, VSAT transmitter, cables with connectors, testing of each site, antenna positioners, mounting hardware. Installation at each site should include program fee for VSAT module
- (e) Install Accessories.
 - (i) APPK-60SET Mast mounting for MAWS enclosure on a 50-60 mm diameter pole/mast/tower
 - (ii) QSA124PT Surge Arrestor for QMT103/110 Temp sensor lines (4-wire)
 - (iii) #010411 Shielded RS485 cabling from MAWS301 to WS425STDH - 10m cables
 - (iv) QSA224DC Surge Arrestor for RS485 lines, wind sensors at 10m

*** End of EXHIBIT P ***

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT P-2b*Meteorological Station Specifications****** SCE Comment: Solar Photovoltaic only. *****

Pursuant to Section 3.08(f), Seller shall install and maintain a minimum of one (1) stand-alone meteorological equipment station for each one (1) square mile (or portion thereof) of the Site. Each station shall be equipped with instruments and equipment that meet or exceed those specifications set forth in the CAISO's PIRP/EIRP protocol and are compatible with the requirements of SCE. SCE and Seller acknowledge that SCE may update this Exhibit P from time to time in order to accommodate industry standards, the CAISO PIRP/EIRP protocol and the needs of SCE.

SCE and Seller shall develop the technical specifications for meteorological stations, which will meet these basic requirements.

Seller shall maintain the meteorological station in accordance with Prudent Electrical Practices and equipment specifications. Seller shall perform yearly calibrations of all instruments. In addition, any solar irradiance sensor must be cleaned weekly or after storm events, following manufacturers recommended cleaning procedures.

1. Equipment Stations.

(a) The equipment stations shall be comprised of the following:

- (i) One (1) heated wind sensor;
- (ii) One (1) air temperature sensor;
- (iii) One (1) relative humidity sensor;
- (iv) One (1) barometric pressure sensor (with DCP sensor);

- (v) One (1) total global irradiation sensor for each collector plane orientation in the Site with the sensor(s) oriented at the same inclination and aspect as the collector plane(s);

{SCE Note: For fixed tilt Solar projects}

A minimum of one thermopile pyranometer for each inverter block mounted in a representative location on an associated tracker. Such thermopile pyranometers shall include either:

- (1) One (1) secondary standard thermopile pyranometer mounted on a tracker associated with each inverter block, or
- (2) For each equipment station, at least one (1) secondary standard thermopile pyranometer mounted on a tracker associated with an inverter block near the equipment station, and for the thermopile pyranometers associated with the remaining balance of inverter blocks, first class and second class thermopile pyranometers may

The contents of this document are subject to restrictions on disclosure as set forth herein.

be installed only if they are calibrated and adjusted in accordance with Section 3.08(f) of the Agreement;
{SCE Note: For tracking Solar projects}

- (vi) One (1) total global radiation sensor horizontal to the ground plane (only 1 such sensor shall be required under this Agreement); and
 - (vii) One (1) diffuse radiation sensor (only 1 such sensor shall be required under this Agreement).
 - (b) In addition, Seller shall report:
 - (i) Solar altitude angle;
 - (ii) Solar azimuth angle;
 - (iii) Precipitation;
 - (iv) Individual tracking assembly angle set points; and
 - (v) The actual tracking assembly angles.
 - (c) All sensors shall be set at a height location representing the height from ground level of the solar collection point, for example, two (2) meters above ground level.
3. Attributes of Equipment Station Locations.
- The equipment station location(s) should be unencumbered by any shadow or equipment. The equipment station tower is to be placed in front of the solar collectors on the southern side of the Site. In addition, the station's satellite communication transmitter requires an unencumbered south-by-south west view of the sky for antenna placement.
4. Communication.
- Seller shall communicate meteorological data to SCE via a system consistent with SCE's employed methods at the time of installation. The equipment installed will need to be approved by SCE.
- The satellite communication requires an unencumbered south-by-southwest view of the sky for antenna placement. Weather station data will be transmitted to SCE consistent with the industry standard practices at the time of installation.
5. Equipment Requirements.
- SCE currently requires equipment with quality levels, compatibility and functional specifications that meet or exceed those of the equipment set forth below in this Item 5. Any equipment different from that listed below must have the approval of SCE before installation at the Site.
- (a) MAWS301 AWS System.

- (i) MAWS301 Basic Assembly for MAWS301 Automatic Weather Station, including following modules and functions:
 - QML201 AWS Logger with 1.7 MB Flash memory for data logging
 - QBR101B Battery regulator
 - ENC542PLM Equipment enclosure with backup battery mounting accessories and internal wiring
 - Bottom plate with signal connectors for sensors and peripheral equipment
 - MAWS LIZARD Set-up software
 - MAWS Terminal software
- (ii) ENC542SHIELD Radiation Shield for MAWS301 enclosure
- (iii) QMZ101 Terminal/maintenance cable for MAWS
- (iv) QMBATT12 Back-up battery - 12 Ah/12V, installed in MAWS enclosure, includes wiring
- (b) Sensors.
 - (i) QMT110 Air temperature sensor with 10 m cable and connector
 - DTR502P22 Radiation shield for QMT110 (air temp sensor) including mounting accessories to a pole/mast (60-100 mm)
 - (ii) QMT103 Air temperature sensor with 5-m cable and connector
 - 212417 Extension cables, 25m, shielded, 5-pin F-M connector for QMT103 sensor
 - DTR502P22 Radiation shield for QMT103 (air temp sensor) including mounting accessories to a pole/mast (60-100 mm)
 - (iii) PMT16A Barometric pressure sensor installed within the MAWS301 enclosure
 - (iv) M301-WS425STDH Heated Ultrasonic Wind Sensor with RS485 & power output cable, sensor mounting on 60 mm diameter pole/mast and 36 VDC power supply
 - (v) HMT 100 humidity and temperature sensor
 - (vi) Model RSR-2, Rotating Shadowband Radiometer System from Irradiance Inc. for site global horizontal and diffuse irradiance
 - (vii) Kipp and Zonen Model CMP-11 or equivalent secondary standard thermopile pyranometer mounted in the plane of the solar array for each *[solar array orientation]* {SCE Note: For fixed tilt Solar projects}

The contents of this document are subject to restrictions on disclosure as set forth herein.

[inverter block, except as specified in Item 1(a)(vi)(2)] {SCE Note: For tracking Solar projects}

(c) Powering.

MCP150-M3-115 Mains (AC) power supply, installed in enclosure (ENC542PLM), including wiring and surge arrestors for 115 VAC

(d) Communication.

- (i) DSI485ASET48-M3 Isolated RS-485 module - 2 wire connection, including extra surge arrestors for both lines, installed in MAWS enclosure communications from logger to WS425 sensors
- (ii) DME421-M3 Ethernet interface serial port to VSAT transmitter. Module mounted within MAWS enclosure
- (iii) VSAT Hardware, VSAT transmitter, cables with connectors, testing of each site, antenna positioners, mounting hardware. Installation at each site should include program fee for VSAT module

(e) Install Accessories.

- (i) APPK-60SET Mast mounting for MAWS enclosure on a 50-60 mm diameter pole/mast/tower
- (ii) QSA124PT Surge Arrestor for QMT103/110 Temp sensor lines (4-wire)
- (iii) #010411 Shielded RS485 cabling from MAWS301 to WS425STDH - 10m cables
- (iv) QSA224DC Surge Arrestor for RS485 lines, wind sensors at 10m

*** End of EXHIBIT P ***

PUBLIC APPENDIX F.2

Redline of 2018 *Pro Forma* Renewable Power Purchase Agreement



~~2017~~2018 PRO FORMA

RENEWABLE POWER PURCHASE AGREEMENT

between

SOUTHERN CALIFORNIA EDISON COMPANY

and

[SELLER'S NAME]

(RAP ID #*[Number]*)

STANDARD CONTRACT TERMS AND CONDITIONS THAT MAY NOT BE MODIFIED
PER THE CPUC D. 08-04-009, D.08-08-028, D.10-03-021 AND D.11-01-025 ARE SHOWN
IN GREEN SHADED TEXT.

TERMS THAT ARE BOXED AND SHADED IN LIGHT YELLOW ARE EITHER
SCE COMMENTS OR GENERATING FACILITY-TYPE SPECIFIC COMMENTS
THAT SHOULD BE REMOVED OR ACCEPTED, AS APPLICABLE.

The contents of this document are subject to restrictions on disclosure as set forth herein.

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LIST OF EXHIBITS

- A. Definitions.
- B. Generating Facility and Site Description.
- C. Notice List.
- D. Forecasting and Scheduling Requirements and Procedures.
- E. Payments and Invoicing.
- F. Product Replacement Damage Amount.
- G. Seller's Milestone Schedule and Material Permits.
- H. Milestone Progress Reporting Form.
- I. Time of Delivery Periods and Product Payment Allocation Factors.
- J. Procedure for Demonstration of Contract Capacity.
- K. Seller's Estimate of Lost Output.
- L. Form of Letter of Credit.

MM. Form of Collateral Assignment Agreement

- N. SCE Penalties and CAISO Sanctions.
{SCE Comment: For Intermittent only.}

CAISO Costs and CAISO Sanctions.
{SCE Comment: For Baseload only.}

- NO. Actual Availability Report.
- OP. Meteorological Station Specifications.
{SCE Comment: For Intermittent only.}

RENEWABLE POWER PURCHASE AGREEMENT

between

SOUTHERN CALIFORNIA EDISON COMPANY

and

[SELLER'S NAME]

(RAP ID #*[Number]*)

PREAMBLE

This Renewable Power Purchase Agreement, together with the exhibits and attachments (collectively, the "Agreement") is made and effective as of the following date: *[Date of Execution]* ("Effective Date").

This Agreement is entered into between:

- (i) **Southern California Edison Company** ("SCE"), a California corporation, whose principal place of business is at 2244 Walnut Grove Avenue, Rosemead, California 91770, and
- (ii) *[Seller's Name]* ("Seller"), a *[Seller's jurisdiction of organization and type of organization]*, whose principal place of business is at *[Seller's place of business]*.

SCE and Seller are sometimes referred to herein individually as a "Party" and jointly as the "Parties." Unless the context otherwise specifies or requires, capitalized terms in this Agreement have the meanings set forth in Exhibit A.

RECITALS

- A. Seller is willing to *[construct]*, own, and Operate a Generating Facility which qualifies, or will qualify, as an ERR, and to sell the Product to SCE pursuant to the terms and conditions set forth in this Agreement; and
- B. SCE is willing to purchase the Product from Seller pursuant to the terms and conditions set forth in this Agreement.

ARTICLE ONE. SPECIAL CONDITIONS

1.01 Generating Facility.

- (a) Name: *[Generating Facility Name]*.
- (b) Location of Site: *[Generating Facility Address]*, as further described in Exhibit B.
- (c) Description: As set forth in Exhibit B.
- (d) Product: All electric energy produced by the Generating Facility throughout the Delivery Term, net of Station Use; all Green Attributes; all Capacity Attributes; and all Resource Adequacy Benefits; generated by, associated with or attributable to the Generating Facility throughout the Delivery Term.
- (e) Interconnection Point: *[insert name or location]*.
{SCE Comment: Placeholder for name of substation or method of identifying location of interconnection to Transmission Provider's electric system. First point of interconnection must be with a California Balancing Authority (i.e., CAISO, Imperial Irrigation District, Turlock Irrigation District, Los Angeles Department of Water & Power (LADWP), or Balancing Authority of Northern California (formerly Sacramento Municipal Utility District).}
- (f) Delivery Point: At the point of interconnection with the CAISO-Controlled Grid, *[insert name or location]*.
{SCE Comment: Placeholder for identifying location on CAISO-Controlled Grid.}
- (g) ERR Type: *[Generation Technology]*.
- (h) Contract Capacity: *[Number]* MW. *{SCE Comment: This should equal the AC nameplate capacity.}* The Contract Capacity may be reduced as set forth in Section 3.06(a).

- (i) Installed DC Rating: *[Number]* kW_{PDC}.
The Installed DC Rating may be reduced as set forth in Section 3.06(a).
{SCE Comment: For Solar Photovoltaic.}

- (j) Expected Annual Net Energy Production. *{SCE Comment: For all technologies except Solar Photovoltaic.}*

The Expected Annual Net Energy Production for each Term Year will be the value calculated in accordance with the following formula:

EXPECTED ANNUAL NET ENERGY PRODUCTION, in kWh = A x B x C

Where:

A = Contract Capacity in kW.

The contents of this document are subject to restrictions on disclosure as set forth herein.

B = [Number] % capacity factor.

C = 8,760 hours per year.

Expected Annual Net Energy Production. {SCE Comment: For Solar Photovoltaic.}

The Expected Annual Net Energy Production for each Term Year will be the value calculated in accordance with the following formula:

EXPECTED ANNUAL NET ENERGY PRODUCTION, in kWh

$$= A \times B \times C$$

Where:

A = The Installed DC Rating, in kW_{PDC}. (As of the Effective Date and until SCE's verification of Seller's installation of the Generating Facility pursuant to Exhibit J, this rating is deemed to be [Number] kW_{PDC}).

B = [Annual Energy Yield Factor Number] kWh AC per kW_{PDC} per year.

C = Annual degradation factor ("Annual Degradation Factor") in each Term Year as follows:

<u>Term Year</u>	<u>Annual Degradation Factor</u>
1	
2	
3	
4	
5	
6	
7	
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1.02 Forecasted Commercial Operation Date.

The Forecasted Commercial Operation Date is [Date].

1.03 Commercial Operation Deadline.

- (a) Subject to any extensions made pursuant to Sections 3.06(d) or 5.03, and further subject to Section 1.03(c), the Commercial Operation Date must be no later than [Date][the date that is thirty-six (36) months after CPUC Approval] {SCE Comment: For Standard Contract Option} (“Commercial Operation Deadline”).
- (b) Subject to Section 1.03(d), if Seller has not obtained Permit Approval on or before that date that is ninety (90) days before the Forecasted Commercial Operation Date, then, upon SCE’s receipt of Notice from Seller, which Notice must be provided at least sixty (60) days before the Forecasted Commercial Operation Date, the Commercial Operation Deadline shall be extended for an additional six (6) months; provided, however, such extension shall not be given if the failure to obtain Permit Approval was as a result of Seller’s failure to take all commercially reasonable actions to apply for and meet all of its requirements and deadlines to obtain such Permit Approval.

Subject to Section 1.03(d), if Seller has not obtained Permit Approval on or before that date that is ninety (90) days before the date that is thirty-six (36) months from the date of CPUC Approval, then, upon SCE’s receipt of Notice from Seller, which Notice must be provided at least sixty (60) days before the date that is thirty-six (36) months from the date of CPUC Approval, the Commercial Operation Deadline shall be extended six (6) months from the date that is thirty-six (36) months from the date of CPUC Approval; provided, however, such extension shall not be given if the failure to obtain Permit Approval was as a result of Seller’s failure to take all commercially reasonable actions to apply for and meet all of its requirements and deadlines to obtain such Permit Approval. {SCE Comment: For Standard Contract Option}

RAP ID# [Number], [Seller's Name]

- (c) Notwithstanding anything in this Agreement to the contrary, the Commercial Operation Deadline may not be later than [Date]. *{SCE Drafting Note: The inserted date will be the date that corresponds with the Forecasted Commercial Operation Date plus an additional 365 days.}*
- (d) Upon request from SCE, Seller shall provide documentation demonstrating to SCE's reasonable satisfaction that the delays described in Section 1.03(b), did not result from Seller's action or failure to take action as described in Section 1.03(b).

1.04 Term.

The Term commences on the Commercial Operation Date determined in accordance with Section 2.02 and ends on the last day of the calendar month that is [number of months in Term (#)] months ([number of years in Term (#)] years) from the month of the Commercial Operation Date (the "Term").

1.05 Product Price.

- (a) Subject to Sections 1.05(b) and 1.05(c)(i), the Product Price is [Dollar amount text] dollars (\$[Number]) per MWh, [escalated at [Number text] percent ([Number] %) per Term Year] {if applicable}.

(b) Federal Tax Incentives.

If, prior to the commencement of the Term, Federal Investment Tax Credit Legislation is enacted which is applicable to the Generating Facility, Seller shall provide a Notice to SCE of the effective date of such legislation and the Product Price shall be reduced by \$_____ per MWh for each percentage point that the level of the investment tax credit is over 10%.

{SCE Comment: Applicable to solar and geothermal projects. Seller should propose the price reduction amount.}

If, prior to the commencement of the Term, Federal Production Tax Credit Legislation is enacted which is applicable to the Generating Facility, Seller shall provide a Notice to SCE of the effective date of such legislation and the Product Price shall be reduced by \$.50 per MWh for each dollar (\$1.00) that the production tax credit is over \$18.40/MWh.

{SCE Comment: Applicable to all other renewable energy projects.}

(c) Excess Deliveries.

- (i) If during any Settlement Interval Seller delivers Metered Amounts, expressed in MWh, in excess of the product of [Number] *{SCE Comment: bracketed number should equal the lesser of the Contract Capacity and the maximum expected output at the Delivery Point, not to exceed the interconnection capacity.}*, expressed in MW, multiplied by the length of such Settlement Interval, expressed in hours, then the Product Price

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applicable to all such excess MWh in such Settlement Interval shall be Zero dollars (\$0) per MWh, and if there is a Negative LMP during such Settlement Interval, Seller shall pay to SCE an amount equal to the absolute value of the Negative LMP times such excess MWh ("Negative LMP Costs").

- (ii) If during any Term Year Seller delivers Metered Amounts, together with Curtailed Product, that are in the aggregate in excess of one hundred fifteen percent (115%) of the Expected Annual Net Energy Production for such Term Year and such Metered Amounts are not (1) subject to Section 1.05(c)(i) or (2) delivered in violation of Section 3.12(g), then Seller shall be responsible for and pay all CAISO Sanctions and CAISO Costs and Seller shall be entitled to all CAISO Revenues with respect to all such excess Metered Amounts in such Term Year.

~~[Intentionally omitted]~~

~~1.07~~ 1.06 Interconnection Queue Position.

[Number(s) to be inserted]

~~1.08~~ 1.07 Compliance Expenditure Cap.

If Seller establishes to SCE's reasonable satisfaction that a change in Applicable Laws occurring after the Effective Date has increased Seller's cost above the cost that could reasonably have been contemplated as of the Effective Date to take all actions to comply with Seller's obligations under the Agreement with respect to obtaining, maintaining, conveying or effectuating SCE's use of (as applicable), the items listed in Sections 1.~~08~~07(a) through (d), then Seller's required out-of-pocket expenses are limited to *[Dollar amount text]* dollars (\$*[Number]*) *{SCE Comment: The amount shall be equal to one percent (1%) of the expected annual Project revenues, but not less than One Hundred Thousand dollars (\$100,000)}* in the aggregate each Term Year ("Compliance Expenditure Cap") between the Effective Date and the last day of the Term:

- (a) CEC Pre-Certification or CEC Certification and CEC Verification;
- (b) Green Attributes;
- (c) Capacity Attributes; and
- (d) Resource Adequacy Benefits.

Any actions required for Seller to comply with its obligations set forth in the first paragraph above, the cost of which will be included in the Compliance Expenditure Cap, shall be referred to collectively as the "Compliance Actions."

If Seller reasonably anticipates the need to incur out-of-pocket expenses in excess of the Compliance Expenditure Cap in order to take any Compliance Action Seller shall provide Notice to SCE of such anticipated out-of-pocket expenses.

SCE will have sixty (60) days to evaluate such Notice (during which time period Seller is not obligated to take any Compliance Actions described in the Notice) and shall, within such time, either (1) agree to reimburse Seller for all or some portion of the costs that exceed the Compliance Expenditure Cap (such SCE-agreed upon costs, the "Accepted Compliance Costs"), or (2) waive Seller's obligation to take such Compliance Actions, or any part thereof for which SCE has not agreed to reimburse Seller.

If SCE agrees to reimburse Seller for the Accepted Compliance Costs, then Seller shall take such Compliance Actions covered by the Accepted Compliance Costs as agreed upon by the Parties and SCE shall reimburse Seller for Seller's actual costs to effect the Compliance Actions, not to exceed the Accepted Compliance Costs.

*** End of ARTICLE ONE ***

ARTICLE TWO. TERM AND CONDITIONS PRECEDENT; TERMINATION**2.01 Obligations Prior to Commencement of the Term.****(a) CPUC Filing and Approval of this Agreement.**

Within ninety (90) days after the Effective Date, SCE shall file with the CPUC the appropriate request for CPUC Approval. *{SCE Comment: Please note that CPUC D.07-11-025 does not allow for any extensions to the ninety (90) day filing requirement}* SCE shall expeditiously seek CPUC Approval, including promptly responding to any requests for information related to the request for CPUC Approval. As requested by SCE, Seller shall use commercially reasonable efforts to support SCE in obtaining CPUC Approval. SCE has no obligation to seek rehearing or to appeal a CPUC decision which fails to approve this Agreement or which contains findings required for CPUC Approval with conditions or modifications unacceptable to either Party.

(b) Seller's Interconnection Queue Position.

Seller must not (i) withdraw the Interconnection Queue Position identified in Section 1.0706, (ii) assign or transfer that Interconnection Queue Position to any entity, or (iii) utilize the Interconnection Queue Position for the benefit of any power purchase and sale agreement other than the Agreement, in each case, without SCE's prior written consent.

(c) Seller's Regulatory and Governmental Filings.

- (i) Within one hundred eighty (180) days after the Effective Date, Seller shall file an application or other appropriate request for CEC Pre-Certification for the Generating Facility.
- (ii) On or before [Date], Seller shall file all applications or other appropriate requests with the proper authorities for all Material Permits, and shall promptly respond to any requests for information from the requesting authority.

2.02 Conditions Precedent to Commencement of Term.**(a) Commencement of Term.**

The Term commences upon the Commercial Operation Date.

(b) Commercial Operation.

- (i) Subject to the remainder of this subsection 2.02(b), the Commercial Operation Date shall be a date selected by Seller upon at least three (3) Business Days Notice to SCE; *provided*, the Commercial Operation Date may not be earlier than [Date].

- (ii) The Commercial Operation Date may not occur until each of the following has been satisfied:
 - (1) Seller has completed the installation and testing of the Generating Facility for purposes of financing, Permits, the interconnection agreement, operating agreements, the EPC agreement and manufacturer's warranties;
 - (2) Seller has received an independent engineer's certification that the Generating Facility has been completed in all material respects (except punch list items that do not materially and adversely affect the ability of the Generating Facility to operate as intended);
 - (3) Seller has met all conditions set forth in Section 3.12(c);
 - (4) Seller has posted with SCE the Performance Assurance required under Section 8.0302;
 - (5) Seller has paid to SCE the full amount of the Excess Network Upgrade Costs, if applicable; and
 - (6) Seller has taken all steps necessary to allow SCE to be designated as the Account Holder in accordance with Section 3.01(d)(iv).

2.03 Termination Rights.

(a) Termination Rights of Both Parties.

- (i) If either Party exercises a termination right, as set forth in Sections 2.03(a)(ii), 2.03(b) or 5.04, a Termination Payment will be calculated in accordance with Section 6.03, the Forward Settlement Amount will be Zero dollars (\$0), the terminating Party will be considered the Non-Defaulting Party and, if the termination occurs before the commencement of the Term, Seller will be entitled to a return of any Development Security provided to SCE.
- (ii) Either Party has the right to terminate this Agreement on Notice, which will be effective five (5) Business Days after such Notice is given, if CPUC Approval has not been obtained or waived by SCE in its sole discretion within three hundred sixty-five (365) days after SCE files its request for CPUC Approval and a Notice of termination is given on or before the three hundred ninety-fifth (395th) day after SCE files the request for CPUC Approval.

(b) Termination Rights of SCE.

SCE has the right to terminate this Agreement on Notice, which will be effective five (5) Business Days after such Notice is given to Seller, on or before the date that is sixty (60) days after Seller provides to SCE the results of any

Interconnection Study or the interconnection agreement tendered to Seller by the Transmission Provider if:

- (i) Such Interconnection Study or agreement as of the date of the termination Notice, estimates, includes, specifies or reflects that the maximum total cost of transmission upgrades or new transmission facilities to SCE, or any Transmission Provider under the jurisdiction of the CAISO, including costs reimbursed by SCE, or any Transmission Provider under the jurisdiction of the CAISO, to Seller ("Aggregate Network Upgrade Costs"), may in the aggregate exceed [dollar amount text] dollars (\$[Number]) ("Network Upgrades Cap"), irrespective of any subsequent amendments of such Interconnection Study or agreement or any contingencies or assumptions upon which such Interconnection Study or agreement is based; or
{SCE Comment: Monetary threshold to be based upon transmission-related costs allocated to the Generating Facility that SCE would incur as estimated in the most recent Interconnection Study.}
- (ii) SCE must procure transmission service from any other Transmission Provider to allow SCE to Schedule electric energy from the Generating Facility and the cost for such transmission service is not reimbursed or paid by Seller.

Notwithstanding anything to the contrary in this Section 2.03(b), SCE shall have no right to terminate this Agreement under this Section 2.03(b), if Seller, concurrently with its provision of the relevant Interconnection Study or agreement pursuant to Section 3.17(a), irrevocably agrees that Seller shall owe to SCE (I) the amount by which the Aggregate Network Upgrade Costs exceed the Network Upgrades Cap ("Excess Network Upgrade Costs"), and (II) any costs for transmission services specified in Section 2.03(b)(ii). If Seller elects to pay, without reimbursement, for the Excess Network Upgrade Costs pursuant to this Section 2.03(b), in no event shall Seller have any interest in or rights or title to any Network Upgrades (as defined in the CAISO Tariff) or Congestion Revenue Rights (as defined in the CAISO Tariff) in connection with the development of the Generating Facility or the delivery of Product to SCE pursuant to this Agreement.

(c) Uncured Defaults.

Upon the occurrence of an Event of Default, the Non-Defaulting Party may terminate this Agreement as set forth in Section 6.02.

(d) End of Term.

This Agreement automatically terminates at the end of the Term as set forth in Section 1.04 unless earlier terminated as provided in this Agreement.

2.04 Rights and Obligations Surviving Termination.

The contents of this document are subject to restrictions on disclosure as set forth herein.

(a) Survival of Rights and Obligations Generally.

The rights and obligations that are intended to survive a termination of this Agreement are all of those rights and obligations that this Agreement expressly provides survive any such termination and those that arise from Seller's or SCE's covenants, agreements, representations, and warranties applicable to, or to be performed, at or during any time before or as a result of the termination of this Agreement, including:

- (i) The obligation of Seller to pay the Product Replacement Damage Amount as set forth in Section 3.07(b);
- (ii) The obligation to make, or the right to receive, a Termination Payment as set forth in Section 6.03;
- (iii) The indemnity obligations as set forth in Section 10.03;
- (iv) The obligation of confidentiality as set forth in Section 10.10;
- (v) The right to pursue remedies as set forth in Sections 6.02, ~~8.06~~05 and 12.04;
- (vi) The limitation of liabilities as set forth in Article Seven;
- (vii) A Party's obligation:
 - (1) To make or receive payment, as applicable, for CAISO Revenues and make payment for CAISO Costs, CAISO Sanctions, and SCE Penalties, as applicable, as set forth in Article Four, Exhibits E and N; and
 - (2) To make or receive Product Payments as set forth in Exhibit E;
- (viii) The covenants and indemnifications regarding the limitations on Seller's and Seller's Affiliates' ability to offer, make or agree to third-party sales as set forth in Sections 2.04(b) and 3.06(b), if applicable;
- (ix) The obligation of Seller to pay to SCE the Development Security if SCE terminates this Agreement in accordance with Section 6.02 prior to Commercial Operation;
- (x) The obligation of Seller to post Performance Assurance as set forth in Section ~~8.03~~2;
- (xi) The dispute resolution provisions of Article Twelve;
- (xii) The obligation of SCE to return any Development Security under Section ~~8.02~~1 and Performance Assurance under Section ~~8.03~~2, as applicable;
- (xiii) Seller's obligations under Section 3.01(d)(iv); and

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(xiv) The obligation of Seller to transfer Green Attributes associated with Product, in accordance with Section 3.01(b), for which SCE has paid the Product Price.

(b) Limitations on Seller's and Seller's Affiliates' Ability to Make or Agree to Third-Party Sales from the Site after Certain Terminations of this Agreement.

If Seller terminates this Agreement, as provided in Sections 2.03(a)(ii) or 5.04 (based on a Force Majeure as to which Seller is the Claiming Party), or if SCE terminates this Agreement as provided in Section 3.06(c), or due to an Event of Default of Seller prior to the Commercial Operation Deadline, neither Seller nor Seller's Affiliates may sell, or enter into a contract to sell, electric energy, Green Attributes, Capacity Attributes, or Resource Adequacy Benefits, generated by, associated with or attributable to a generating facility installed at the Site to a party other than SCE for a period of two (2) years following the effective date of such termination (the "Restricted Period").

This prohibition on contracting and sale will not apply if, before entering into such contract or making a sale to a party other than SCE, Seller or Seller's Affiliate provides SCE with a written offer to sell the electric energy, Green Attributes, Capacity Attributes and Resource Adequacy Benefits to SCE at the Product Price and on other terms and conditions materially similar to the terms and conditions contained in this Agreement and SCE fails to accept such offer within forty-five (45) days after SCE's receipt thereof.

Neither Seller nor Seller's Affiliates may sell or transfer the Generating Facility, or any part thereof, or land rights or interests in the Site (including the Interconnection Queue Position) during the Restricted Period so long as the limitations contained in this Section 2.04(b) apply, unless the transferee agrees to be bound by the terms set forth in this Section 2.04(b) pursuant to a written agreement approved by SCE. Upon termination of this Agreement pursuant to the Sections referenced in the first paragraph of this Section 2.04(b), Seller shall deliver a notice of SCE's rights in respect of the Site, in a form reasonably acceptable to SCE, that SCE may record giving notice of SCE's rights under this Section 2.04(b).

Seller shall indemnify and hold SCE harmless from all benefits lost and other damages sustained by SCE as a result of any breach of the covenants contained within this Section 2.04(b).

*** End of ARTICLE TWO ***

ARTICLE THREE. SELLER'S OBLIGATIONS**3.01 Conveyance of Entire Output, Conveyance of Green Attributes, Capacity Attributes and Resource Adequacy Benefits.**

- (a) Metered Amounts. Seller shall dedicate and convey the *entire* Metered Amounts throughout the Delivery Term to SCE. Seller shall convey title to and risk of loss of all Metered Amounts to SCE at the Delivery Point.
- (b) Green Attributes. Seller hereby provides and conveys all Green Attributes associated with all electricity generation from the Project to SCE as part of the Product being delivered. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Project, and Seller agrees to convey and hereby conveys all such Green Attributes to SCE as included in the delivery of the Product from the Project.
- (c) Capacity Attributes and Resource Adequacy Benefits. Subject to Section 1.0807, Seller shall dedicate and convey any and all Capacity Attributes and Resource Adequacy Benefits generated by, associated with or attributable to the Generating Facility throughout the Delivery Term to SCE and SCE shall be given sole title to all such Capacity Attributes and Resource Adequacy Benefits in order for SCE to meet its resource adequacy obligations under any Resource Adequacy Rulings.

Seller represents, warrants and covenants to SCE that:

- (i) As of the Effective Date, Seller has not used, granted, pledged, assigned or otherwise committed any portion of the generating capacity of the Generating Facility to meet the Resource Adequacy Requirements of, or to confer Resource Adequacy Benefits on, any entity other than SCE during the Delivery Term; and
- (ii) Throughout the Delivery Term, Seller will not use, grant, pledge, assign or otherwise commit any portion of the generating capacity of the Generating Facility to meet the Resource Adequacy Requirements of, or to confer Resource Adequacy Benefits on, any entity other than SCE.
- (d) Further Action by Seller. Subject to Section 1.0807, commencing at least six (6) months before the Commercial Operation Date and throughout the Delivery Term, Seller shall, at its own cost, take all actions and execute all documents or instruments necessary to effectuate the use of the Green Attributes, Capacity Attributes and Resource Adequacy Benefits for SCE's sole benefit throughout the Delivery Term, which actions include:
 - (i) Cooperating with and encouraging the regional entity responsible for resource adequacy administration to certify or qualify the Contract Capacity for resource adequacy purposes;

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- (ii) Testing the Generating Facility in order to certify the Generating Facility for resource adequacy purposes;
- (iii) Complying with all current and future CAISO Tariff provisions that address resource adequacy and are applicable to the Generating Facility, including provisions regarding performance obligations and penalties, if applicable;

- (iv) Complying with Applicable Laws regarding the certification and transfer of Renewable Energy Credits, including cooperation with the Western Renewable Energy Generation Information System ("WREGIS") or other process recognized under Applicable Laws for the registration, transfer or ownership of Green Attributes associated with the Generating Facility. Unless otherwise agreed to by the Parties, SCE will take all actions to be the Account Holder and Qualified Reporting Entity, and the party responsible for registering the Generating Facility as a Registered Generating Unit. Seller shall provide SCE with all supporting documents requested for registration approval, as required by WREGIS. *{SCE Comment: Language only applicable to projects that do not use shared transformers.}*

If Seller has sold Product (or product that would be considered "Product" under this Agreement if it were attributable to the Delivery Term) to any party other than SCE with respect to a period that is prior to the Commercial Operation Date, Seller shall, or shall cause such party to: (i) take all actions necessary for SCE to be the Account Holder as of the Commercial Operation Date, and (ii) take all actions necessary for SCE to be the Qualified Reporting Entity prior to the generation of any WREGIS Certificates associated with deliveries of Product on and after the Commercial Operation Date. SCE agrees to transfer all WREGIS Certificates associated with generation from the Generating Facility prior to the Commercial Operation Date to Seller or Seller's designee. Seller agrees to indemnify, defend and hold harmless SCE from and against any and all loss, liability, damage, claim, cost or expense of any kind or nature (including any direct, damage, claim, cost, charge, demand, or expense, and attorneys' fee (including the cost of in-house counsel)) and other costs of litigation, arbitration and mediation, arising out of or in connection with SCE's transfer to Seller or Seller's designee of WREGIS Certificates associated with renewable power generated by the Generating Facility prior to the Commercial Operation Date; *{SCE Comment: Language only applicable to projects that do not use shared transformers.}*

Complying with Applicable Laws regarding the certification and transfer of Renewable Energy Credits, including cooperation with the Western

Renewable Energy Generation Information System (“WREGIS”) or other process recognized under Applicable Laws for the registration, transfer or ownership of Green Attributes associated with the Generating Facility. Seller, at its own cost (which cost shall not be subject to the Compliance Expenditure Cap), shall serve as, or shall engage CAISO or some other mutually agreed entity, to serve as the Qualified Reporting Entity for the Generating Facility. Seller shall act as the Account Holder for the Generating Facility and shall effectuate the transfer to SCE of all WREGIS Certificates associated with or attributable to the Metered Amounts within five (5) Business Days of Seller’s receipt of, or creation in Seller’s WREGIS account of, such WREGIS Certificates; *{SCE Comment: Language only applicable to projects that utilize shared transformers.}*

- (v) Committing to SCE the entire Metered Amounts of the Generating Facility; and
- (vi) Pursuing and obtaining any and all Capacity Attributes and Resource Adequacy Benefits to the extent that Applicable Laws, including as may be changed after the Effective Date, allow for any Capacity Attributes or Resource Adequacy Benefits to be obtained other than by the completion of Delivery Network Upgrades.

- (e) Bioenergy Benefits. For all electric generation using biomethane as fuel, Seller shall transfer to SCE sufficient renewable and environmental attributes of biomethane production and capture to ensure that there are zero (0) net emissions associated with the production of electricity from the Generating Facility using the biomethane.

For all electric generation using biomethane as fuel, neither SCE nor Seller may make a marketing, regulatory, or retail claim that asserts that a procurement contract to which that entity was a party resulted, or will result, in greenhouse gas reductions related to the destruction of methane if the capture and destruction is required by law. If the capture and destruction of the biomethane is not required by law, neither SCE nor Seller may make a marketing, regulatory, or retail claim that asserts that a procurement contract to which that entity was a party resulted, or will result, in greenhouse gas reductions related to the destruction of methane, unless the environmental attributes associated with the capture and destruction of the biomethane pursuant to that contract are transferred to SCE and retired on behalf of the retail customers consuming the electricity associated with the use of that biomethane, or unless Seller’s procurement contract with the source of biomethane prohibits the source of biomethane from separately marketing the environmental attributes associated with the capture and destruction of the biomethane sold pursuant to that contract, and such attributes have been retired. *{SCE Comment: Biomethane projects only.}*

3.02 Resource Adequacy Performance Obligation.

Commencing on the [later of] the Commercial Operation Date [and the Date bid as the RA Guarantee Date], and throughout the [remainder of the] {if Seller's offer included delivering Resource Adequacy Benefits commencing on a date later than the Forecasted Commercial Operation Date} Term, in each month, Seller shall pay to SCE an amount (the "RA Deficit Payments") equal to the product of (a) the difference, expressed in kW, of (i) the Qualifying Capacity of the Generating Facility for the applicable month, minus (ii) the Net Qualifying Capacity of the Generating Facility for the applicable month, multiplied by (b) the then-current CPM Capacity price as listed in Section 43.7.1 of the CAISO Tariff or its equivalent successor (the "Multiplier"), expressed in \$/kW-month. Should the CPM Capacity price cease to be published by the CAISO and no equivalent successor is published, the Multiplier shall be equal to the last CPM Capacity price listed in the CAISO Tariff and escalated by two percent (2%) every twelve (12) months thereafter. In any event, the Multiplier may not exceed \$120/kW-year.

{SCE Comment: Only Generating Facilities providing guaranteed delivery of Resource Adequacy Benefits.}

3.03 Other Sales of Product.

Throughout the Delivery Term, Seller shall not sell the Product (or any portion thereof) to any entity other than SCE.

3.04 Allocation of Availability Incentive Payments and Non-Availability Charges.

If the Generating Facility is subject to the terms of the Availability Standards, Non-Availability Charges, and Availability Incentive Payments as contemplated under Section 40.9 of the CAISO Tariff, any Availability Incentive Payments will be for the benefit of Seller and for Seller's account and any Non-Availability Charges will be the responsibility of Seller and for Seller's account.

3.05 Permits, Interconnection and Transmission Service Agreements, and CAISO Tariff Compliance.

- (a) Seller shall obtain and maintain throughout the Delivery Term any and all interconnection and transmission service rights and Permits required to effect delivery of the electric energy from the Generating Facility to the Delivery Point.
- (b) Seller shall be responsible for all costs and charges directly caused by, associated with, or allocated to the interconnection of the Generating Facility to the Transmission Provider's electric system and transmission of electric energy from the Generating Facility to the Transmission Provider's electric system.
- (c) Seller shall comply with the CAISO Tariff, including securing and maintaining in full force all required CAISO agreements, certifications and approvals.
- (d) Seller shall secure through the CAISO the CAISO Resource ID that is to be used solely for the Generating Facility.

- (e) Seller shall comply with the requirements of Appendix H to Appendix CC of the CAISO Tariff.

{SCE Comment: Language applicable to projects that do not utilize Shared Facilities.}

- (a) Seller shall obtain and maintain throughout the Delivery Term any and all interconnection and transmission service rights and Permits required to effect delivery of the electric energy from the Generating Facility to the Delivery Point. The interconnection agreement shall provide for interconnection capacity available or allocable to the Generating Facility that is no less than the Contract Capacity. The Parties acknowledge that ownership and use of the Shared Facilities (including the interconnection agreement itself) may be subject to a co-tenancy or similar sharing agreement (collectively, “Shared Facilities Agreement(s)”), under which Shared Facilities Agreements an Affiliate of Seller may act as a manager on behalf of Seller and the Other Seller(s) under the interconnection agreement (“Affiliate Manager”). Seller shall ensure that, during the Startup Period and throughout the Term, Seller shall have sufficient interconnection capacity and rights under or through the interconnection agreement and the Shared Facilities Agreements, if any, to interconnect the Generating Facility with the CAISO-Controlled Grid and fulfill its obligations under this Agreement. In connection with the interconnection agreement and the Shared Facilities Agreements, if any, the following shall apply:

- (i) The Shared Facilities Agreements shall provide that:

- (1) the Other Seller(s), the Affiliate Manager and the Interconnection Affiliate (if different from the Seller or Other Seller(s)) shall fully indemnify Seller for any liability arising out of its respective acts or omissions in regards to its respective performance obligations under the interconnection agreement and any Shared Facilities Agreement in which such party is a counterparty with Seller,
- (2) Seller shall have the right to correct, remedy, mitigate, or otherwise cure any omission, failure, breach or default by Other Seller, Affiliate Manager, or Interconnection Affiliate (if different from the Seller or Other Seller(s)) that would negatively impact Seller’s obligations under this Agreement, under the interconnection agreement, or under any Shared Facilities Agreement in which Seller is a counterparty, and
- (3) any instruction from the CAISO or Transmission Provider to curtail energy deliveries shall be allocated between the Generating Facility and the Other Generating Facility(ies) on a pro rata basis

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based upon installed capacity, except when such pro rata allocation would be in violation of the applicable curtailment instruction.

- (ii) Seller shall, or shall cause the Interconnection Affiliate (if different from Seller), to apply for and expeditiously seek FERC's acceptance of any Shared Facilities Agreement(s), if required.
- (iii) Seller shall not assign or transfer Seller's rights or obligations under the interconnection agreement or any Shared Facilities Agreement to any Person without the prior written consent of SCE, which consent shall not be unreasonably withheld.

- (b) As between SCE and Seller under this Agreement, Seller shall be responsible for all costs and charges directly caused by, associated with, or allocated to Seller, the Interconnection Affiliate, the Affiliate Manager, or the Other Seller(s) under the interconnection agreement, the Shared Facilities Agreement, if any, and the CAISO Tariff, in connection with the interconnection of the Generating Facility to the Transmission Provider's electric system and transmission of electric energy from the Generating Facility to the Transmission Provider's electric system.
- (c) Seller shall, or shall cause the Interconnection Affiliate, as applicable, to comply with the CAISO Tariff, including securing and maintaining in full force and effect all required CAISO agreements, certifications and approvals. *[Notwithstanding any other provision in this Agreement, any out-of-pocket expense that would otherwise be applied to the Compliance Expenditure Cap shall not be applied to such cap in order for Seller, or the Interconnection Affiliate, to comply with the CAISO Tariff.] {SCE Comment: Language only applicable to projects that utilize shared transformers.}*
- (d) Seller shall, or shall cause the Interconnection Affiliate, as applicable, to secure through the CAISO the CAISO Resource ID that is to be used solely for this Generating Facility.
- (e) Seller shall, or shall cause the Interconnection Affiliate, as applicable, to comply with the requirements of Appendix H to Appendix CC of the CAISO Tariff, or its equivalent successor.

{SCE Comment: Language applicable to projects that utilize Shared Facilities.}

3.06 Modification of Special Conditions.

- (a) If the Contract Capacity set forth in Section 1.01(h) is greater than the Demonstrated Contract Capacity,
 - (1) The Contract Capacity will be reduced to an amount equal to the Demonstrated Contract Capacity;

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- (2) The Expected Annual Net Energy Production will be recalculated using such adjusted Contract Capacity;
- (3) The amount of the Performance Assurance required to be posted and maintained pursuant to Section 8.0302 will be recalculated using such adjusted Contract Capacity, and any amount of Performance Assurance in excess of that required for the adjusted Contract Capacity will be returned to Seller.
{SCE Comment: For all technologies except Solar Photovoltaic}

- (ii) If the Installed DC Rating set forth in Section 1.01(i) is greater than the Demonstrated Installed DC Rating,

- (1) The Installed DC Rating will be reduced to an amount equal to the Demonstrated Installed DC Rating;
- (2) The Expected Annual Net Energy Production will be recalculated using such adjusted Installed DC Rating;
- (3) The amount of the Performance Assurance required to be posted and maintained pursuant to Section 8.0302 will be recalculated using such adjusted Installed DC Rating, and any amount of Performance Assurance in excess of that required for the adjusted Installed DC Rating will be returned to Seller.
{SCE Comment: For Solar Photovoltaic}

- (iii) Neither Party will have any liability for failure to purchase or deliver Product associated with or attributable to capacity in excess of the *[Demonstrated Installed DC Rating]* *{SCE Comment: For Solar Photovoltaic}* or the Demonstrated Contract Capacity (“Unincluded Capacity”), subject to Section 2.02(d).

(b) Restrictions on Sales Related to Unincluded Capacity.

- (i) Neither Seller nor Seller’s Affiliates may sell, or enter into an agreement to sell, electric energy, Green Attributes, Capacity Attributes or Resource Adequacy Benefits associated with or attributable to Unincluded Capacity from any generating facility installed at the Site to a party other than SCE for a period of two (2) years following SCE’s Notice to Seller of Seller’s partial forfeiture of the Development Security pursuant to ~~Exhibit~~ Section 3.06(f).
- (ii) With respect to Seller’s Affiliates, the prohibition on contracting and sale as set forth in Section 2.02(d)(i) will not apply if, before entering into the contract or making a sale to a party other than SCE, any Seller’s Affiliate wishing to enter into a contract or sale provides SCE with a written offer to sell the electric energy, Green Attributes, Capacity Attributes and Resource Adequacy Benefits related to Unincluded Capacity to SCE on

The contents of this document are subject to restrictions on disclosure as set forth herein.

terms and conditions materially similar to or no less favorable to SCE than the terms and conditions contained in this Agreement and SCE fails to accept such offer within forty-five (45) days after SCE's receipt thereof; *provided*, any Seller's Affiliate wishing to enter into a contract or sale must:

- (1) Build a new generating facility separate from the Generating Facility to produce such additional electric energy and associated attributes;
- (2) Establish an entity other than Seller to act as the seller for such additional electric energy and associated attributes;
- (3) Meter such additional generating capacity separately from the Generating Facility, to SCE's reasonable satisfaction; and
- (4) Separately interconnect such additional generating capacity to the Transmission Provider's system, to SCE's reasonable satisfaction.

If the preceding conditions are met, Seller's Affiliates (but not Seller) will be free to sell such additional electric energy and associated attributes to third parties.

(c) Failure to Meet the Commercial Operation Deadline.

Subject to Seller's right to extend the Commercial Operation Deadline as provided in Section 1.03 and Section 5.03 (for Force Majeure where Seller is the Claiming Party), in the event that (i) Seller and SCE mutually agree that Commercial Operation will not occur on or before the Commercial Operation Deadline; (ii) the Commercial Operation Date will not occur due to any termination of this Agreement as a result of an Event of Default by Seller occurring on or before the Commercial Operation Deadline; (iii) the procurement of *[the applicable electrical generating equipment]* for the Generating Facility does not occur within ninety (90) days after the applicable date set forth in the Milestone Schedule; (iv) close of construction financing for the Generating Facility is not completed within one hundred twenty (120) days after the applicable date set forth in the Milestone Schedule; or (v) Seller abandons the Generating Facility prior to the Commercial Operation Date occurring, SCE shall be entitled to:

- (A) The entire Development Security, including the right to draw on and retain for its sole benefit any Letter of Credit and the proceeds thereof, as well as any cash, posted as Development Security; and
- (B) Terminate this Agreement;

provided, SCE shall give Notice to Seller of any determination under Sections 3.06(c)(iii) through (v) that the Commercial Operation Date is unlikely to occur on or before the Commercial Operation Deadline, and if within thirty (30) days

from the date of such Notice Seller can establish to SCE's reasonable satisfaction that the Commercial Operation Date is likely to occur on or before the Commercial Operation Deadline, SCE may not terminate the Agreement prior to the Commercial Operation Deadline or retain the Development Security at that time, but shall retain all other rights under this Agreement, including the right to terminate the Agreement and retain the entire Development Security if the Commercial Operation Date does not occur on or before the Commercial Operation Deadline in accordance with clause (ii) of the first paragraph of this Section 3.06(c).

If SCE terminates this Agreement pursuant to this Section 3.06(c), any amount of Development Security that Seller has not yet posted with SCE will be immediately due and payable by Seller to SCE.

In addition, subject to Section 2.04(b), if SCE terminates this Agreement pursuant to this Section 3.06(c), neither Party shall have liability for damages for failure to deliver or purchase Product after the effective date of such termination, and the Forward Settlement Amount will be Zero dollars (\$0).

(d) Daily Delay Liquidated Damages to Extend Commercial Operation Deadline.

Seller may extend the Commercial Operation Deadline by paying to SCE damages in an amount equal to one percent (1%) of the Development Security per day for each day (or portion thereof) from and including the Commercial Operation Deadline to and excluding the Commercial Operation Date ("Daily Delay Liquidated Damages").

To extend the Commercial Operation Deadline, Seller must, at the earliest possible time, but no later than 6 a.m. on the first day of the proposed Commercial Operation Deadline extension, provide SCE with Notice of its election to extend the Commercial Operation Deadline along with Seller's estimate of the duration of the extension and its payment of Daily Delay Liquidated Damages for the full estimated Commercial Operation Deadline extension period.

Seller may further extend the Commercial Operation Deadline beyond the original Commercial Operation Deadline extension period subject to the same terms applicable to the original Commercial Operation Deadline extension.

The Daily Delay Liquidated Damages payments applicable to days included in any Commercial Operation Deadline extension are nonrefundable and are in addition to, and not a part of, the Development Security.

Seller will be entitled to a refund (without interest) of any estimated Daily Delay Liquidated Damages payments paid by Seller which exceed the amount required to cover the number of days by which the Commercial Operation Deadline was actually extended.

In no event may Seller extend the Commercial Operation Deadline for more than a total of one hundred eighty (180) days by the payment of Daily Delay Liquidated Damages.

(e) Full Return of Development Security.

Subject to Section 8.0201(c)(i) and the Commercial Operation Date occurring on or before the Commercial Operation Deadline or any extended Commercial Operation Deadline as provided in this Agreement, if Seller demonstrates the full [Installed DC Rating specified in Section 1.01(i)] {SCE Comment: For Solar Photovoltaic} [Contract Capacity specified in Section 1.01(h)] {SCE Comment: For all technologies except Solar Photovoltaic}, SCE shall return the full Development Security.

(f) Partial Return of Development Security.

If Commercial Operation occurs on or before the Commercial Operation Deadline, but the Demonstrated Contract Capacity is less than the Contract Capacity set forth in Section 1.01(h), then Prior to the Commercial Operation Date (and as a condition to its occurrence), Seller shall pay SCE an amount equal to the product of [Dollar amount text] dollars (\$[Number]) {SCE Comment: amount to be provided by SCE} per kW and the difference (in kW) between the original Contract Capacity set forth in Section 1.01(h) and the Demonstrated Contract Capacity; provided that, with SCE's consent, Seller may elect to apply its Development Security toward this payment.
{SCE Comment: For all technologies except Solar Photovoltaic}

If Commercial Operation occurs on or before the Commercial Operation Deadline, but the Demonstrated Installed DC Rating is less than the Installed DC Rating set forth in Section 1.01(i), prior to the Commercial Operation Date (and as a condition to its occurrence), Seller shall pay SCE an amount equal to the product of [Dollar amount text] dollars (\$[Number]) {SCE Comment: amount to be provided by SCE} per kW and the difference (in kW) between the original Installed DC Rating set forth in Section 1.01(i) and the Demonstrated Installed DC Rating; provided that, with SCE's consent, Seller may elect to apply its Development Security toward this payment.
{SCE Comment: For Solar Photovoltaic}

3.07 Seller's Energy Delivery Obligation.

On the commencement of the first Term Year and for every Term Year thereafter, Seller is subject to the electric energy delivery requirements and damages for failure to perform as set forth in this Section 3.07.

(a) Performance Requirements.

The contents of this document are subject to restrictions on disclosure as set forth herein.

(i) Seller's Energy Delivery Obligation.

"Seller's Energy Delivery Obligation" for the twenty-four (24) month period immediately preceding the end of each Term Year commencing at the end of the second Term Year ("Calculation Period") is one hundred forty percent (140%) of the Expected Annual Net Energy Production.
{SCE Comment: Wind only.}

"Seller's Energy Delivery Obligation" for the twenty-four (24) month period immediately preceding the end of each Term Year commencing at the end of the second Term Year ("Calculation Period") is one hundred seventy percent (170%) of the average of the two (2) Expected Annual Net Energy Production amounts applicable to the Calculation Period.
{SCE Comment: All other intermittent technologies.}

"Seller's Energy Delivery Obligation" for the twelve (12) month period immediately preceding the end of each Term Year commencing at the end of the first Term Year ("Calculation Period") is ninety percent (90%) of the Expected Annual Net Energy Production.
{SCE Comment: Baseload technologies.}

(ii) Event of Deficient Energy Deliveries.

At the end of each Term Year commencing with the end of the second Term Year, if the sum of Qualified Amounts plus any Lost Output (calculated in accordance with Exhibit K) in the applicable Calculation Period does not equal or exceed Seller's Energy Delivery Obligation, then an Event of Deficient Energy Deliveries will be deemed to have occurred.
{SCE Comment: Wind and Solar only.}

At the end of each Term Year if the sum of the Qualified Amounts plus any Lost Output (calculated in accordance with Exhibit K) during the Term Year does not equal or exceed Seller's Energy Delivery Obligation, then an Event of Deficient Energy Deliveries will be deemed to have occurred.
{SCE Comment: All other technologies.}

(b) Product Replacement Damage Amount.

If an Event of Deficient Energy Deliveries occurs, as determined in accordance with Section 3.07(a)(ii) above, the Parties acknowledge that the damages sustained by SCE associated with an Event of Deficient Energy Deliveries would be difficult or impossible to determine, or that obtaining an adequate remedy would be unreasonably time consuming or expensive, and therefore agree that Seller shall pay SCE as liquidated damages an amount which is intended to compensate SCE for Seller's failure to perform, irrespective of whether SCE

actually purchased replacement Product by reason of Seller's failure to perform (the "Product Replacement Damage Amount").

- (i) Within ninety (90) days after the end of the applicable Term Year, SCE shall calculate any Product Replacement Damage Amount as set forth in Exhibit F, and shall provide Notice to Seller of any Product Replacement Damage Amount owing, including a detailed explanation of, and rationale for, its calculation methodology, annotated work papers and source data.
- (ii) Seller shall have thirty (30) days after receipt of SCE's Notice to review SCE's calculation and either pay the entire Product Replacement Damage Amount claimed by SCE or pay any undisputed portion and provide Notice to SCE of the portion Seller disputes along with a detailed explanation of, and rationale for, Seller's calculation methodology, annotated work papers and source data.
- (iii) The Parties shall negotiate in good faith to resolve any disputed portion of the Product Replacement Damage Amount and shall, as part of such good faith negotiations, promptly provide information or data relevant to the dispute as each Party may possess which is requested by the other Party.
- (iv) If the Parties are unable to resolve a dispute regarding any Product Replacement Damage Amount within thirty (30) days after the sending of a Notice of dispute by Seller, either Party may submit the dispute to mediation and arbitration as provided in Article Twelve.

(c) Continuing Obligations of Seller.

Notwithstanding any payment of a Product Replacement Damage Amount, all of Seller's obligations under Section[s] 3.01 [and 3.02] continue to apply.

3.08 Metering, Communications, Telemetry and Meteorological Station(s).

(a) CAISO Approved Meter.

Seller shall, at its own cost, install, maintain and test all CAISO Approved Meters pursuant to the CAISO Tariff. *{SCE Comment: Language applicable to projects that do not use a shared transformer.}*

Seller shall, at its own cost, install, maintain and test all CAISO Approved Meters pursuant to the CAISO Tariff and the CAISO Exemption, so long as such CAISO Exemption is valid and in effect. Such CAISO Approved Meters, and any associated equipment, shall be installed and maintained in a manner that is sufficient to meter the Generating Facility separately from the Other Seller(s). *{SCE Comment: Language only applicable to projects that utilize a shared transformers.}*

(b) Check Meter.

The contents of this document are subject to restrictions on disclosure as set forth herein.

Seller will permit SCE to furnish and install one Check Meter on the high voltage side of the step-up transformer, substation, or any other location at SCE's sole discretion, associated with the Generating Facility in compliance with the applicable utility electric service requirements. Each Check Meter must be interconnected with SCE's communication network to permit:

- (i) Periodic, remote collection of revenue quality meter data; and
- (ii) Back-up real time transmission of operating-quality meter data.

{SCE Comment: Language applicable to projects that do not use a shared transformer.}

Seller will permit SCE to furnish and install one or more Check Meters in compliance with the applicable utility electric service requirements and installed in a manner that is sufficient for SCE to meter the Generating Facility separately from the Other Seller(s). All costs associated with the procurement and installation of the Check Meter(s) shall be borne by Seller. Each Check Meter must be interconnected with SCE's communication network to permit:

- (i) Periodic, remote collection of revenue quality meter data; and
- (ii) Back-up real time transmission of operating-quality meter data.

{SCE Comment: Language only applicable to projects that utilize a shared transformer.}

(c) SCE's Access to Meters.

- (i) Subject to Section 3.18, Seller hereby grants SCE reasonable access to all CAISO Approved Meters and Check Meters for meter readings and any purpose necessary to effectuate this Agreement.
- (ii) Seller shall promptly provide SCE access to all meter data and data acquisition services both in real-time, and at later times, as SCE may reasonably request.
- (iii) Prior to the Commercial Operation Date, Seller shall provide instructions to the CAISO granting authorizations or other documentation sufficient to provide SCE with access to the CAISO Approved Meter(s) and to Seller's settlement data on OMAR.

(d) CAISO Approved Meter Maintenance.

- (i) Seller shall test and calibrate the CAISO Approved Meter(s), as necessary, but in no event will the period between testing and calibration dates be greater than twelve (12) months.
- (ii) Seller shall bear its own costs for any meter check or recertification of the CAISO Approved Meter(s).

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (iii) Seller shall replace each CAISO Approved Meter battery at least once every thirty-six (36) months or such shorter period as may be recommended by the CAISO Approved Meter manufacturer.

Notwithstanding the foregoing, if a CAISO Approved Meter battery fails, Seller shall replace such battery within one (1) day after becoming aware of its failure.
- (iv) Seller shall use certified test and calibration technicians to perform any work associated with the CAISO Approved Meter(s).
- (v) Seller shall inform SCE of test and calibration dates, provide SCE with access to observe and witness such testing and calibration, and provide SCE certified results of tests and calibrations within thirty (30) days after completion.

(e) SCADA and Telemetry System.

All communication, metering, telemetry, and associated generation operation equipment will be centralized into the Generating Facility's SCADA. Seller shall configure the SCADA so that SCE may access it via the GMS from the GOC. Seller shall link the systems via an approved SCE communication network, utilizing existing industry standard network protocol, as approved by SCE. The connection will be bidirectional in nature and used by the Parties to exchange all data points to and from the GOC. Seller shall be responsible for the costs of installing, configuring, maintaining and operating the SCADA and internal site links for the Generating Facility.

Seller shall be responsible for designing, furnishing, installing, operating, maintaining and testing a real time Telemetry System capable of interconnecting to the GMS, the CAISO Approved Meter(s) and the Generating Facility's control system with the CAISO's Energy Communication Network.

The Telemetry System shall be designed in accordance with the CAISO monitoring and communication requirements and must be capable of:

- (i) Reporting data from each CAISO Approved Meter;
- (ii) Providing the status of key control points from the Generating Facility's control system;
- (iii) Routing generating unit set points to the Generating Facility's control system; and
- (iv) Communicating availability of the Generating Facility pursuant to Section 3.08(g).

The Telemetry System must include a data processing gateway, internet connection, interconnecting cabling and all service agreements required for accessing the CAISO's Energy Communications Network.

The contents of this document are subject to restrictions on disclosure as set forth herein.

The above mentioned connections and data transfer must be included in the systems engineering tasks as a part of the construction of the Generating Facility, and must be fully functional before Commercial Operation.

(f) Meteorological Station(s) and Reporting Requirements.

Seller, at its own expense, shall install and maintain one (1) or more stand-alone meteorological stations at the Generating Facility in accordance with Exhibit ~~OP~~ to monitor and report weather data to both the CAISO and the existing SCE weather station data collection system.

The station(s) must be installed at least sixty (60) days before Commercial Operation.

The station(s) must be equipped with the Meteorological Equipment, as may be modified by Seller at SCE's direction from time to time to reflect the CAISO's PIRP/EIRP protocol and the requirements of Exhibit K.

The station(s) must be designed to collect and record data in accordance with CAISO's PIRP/EIRP protocols and the requirements of Exhibit K.

Data reports must be formatted in a manner consistent with the CAISO requirements published on the CAISO internet website.

Telemetry equipment must be designed to function in accordance with CAISO's PIRP/EIRP protocols.

The station(s) must be equipped to measure and record the minimum data required by the CAISO, in the manner specified by the CAISO.

Seller shall submit to SCE for review and approval, Seller's technical specifications for the meteorological station(s) along with a site plan showing the location of the station(s), the location of all *[Wind Turbines, the wind rose for the Site], [Solar Generating Units, Photovoltaic Modules, Current Inverters,]* and other prominent features, as applicable.

{SCE Comment: Intermittent only.}

Seller shall calibrate all first and second class thermopile pyranometers to the same nationally recognized standard and apply temperature correction to the measurement. Seller's Telemetry System shall transmit the calibrated data to SCE. Such temperature correction shall be based upon a calibration of the actual instrument or to a generic temperature curve that is supported by data from a nationally recognized testing laboratory to be representative of the exact vintage and model of instruments to be used by the Seller. Furthermore, Seller shall calibrate all thermopile pyranometers, regardless of type, every Term Year and upon SCE's reasonable request.

{SCE Comment: Solar photovoltaic only.}

(g) Real-Time Communication of Availability.

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (i) Prior to the Commercial Operation Date, Seller shall install a telecommunication system and demonstrate to SCE's reasonable satisfaction that the system interfaces with the Web Client and the GMS to provide SCE with Seller's Real-Time Availability.
- (ii) Seller shall maintain the telecommunications path, the hardware, and software to provide quality data to SCE throughout the Delivery Term.
- (iii) Upon Notice from SCE, Seller shall repair or have corrected as soon as possible, but no later than five (5) days after receipt of such Notice any:
 - (1) Inoperable telecommunications path;
 - (2) Inoperable software; or
 - (3) Faulty instrumentation.
- (iv) Seller shall submit an Actual Availability Report pursuant to Section 3.22 for any month in which Seller's telecommunications system was not available or did not provide quality data for longer than twenty-four (24) continuous hours.

3.09 Site Location and Control.

- (a) This Agreement is Site specific as set forth in Section 1.01(b). Seller may change the location of the Site only upon SCE's prior written consent, which consent is in SCE's sole discretion.
- (b) Seller shall have Site Control *[and Shared Facilities Control]* from the Effective Date and continuing throughout the Term. *{SCE Comment: Bracketed language only applicable to projects that have Shared Facilities.}*
- (c) Seller shall provide SCE with prompt Notice of any change in the status of Seller's Site Control *[or Shared Facilities Control]*. *{SCE Comment: Bracketed language only applicable to projects that have Shared Facilities.}*

3.10 Change in Structure, Ownership or Financing.

Seller shall provide Notice to SCE within five (5) Business Days after a change in the status of any of the following:

- (a) Seller's exact and complete name, form of organization, direct or indirect ownership and state of incorporation or organization, or address of Seller's principal place of business; and
- (b) Seller's construction-period financing and Operating-period financing, including the sources of equity investments and debt financings.

No Notice provided pursuant to this Section 3.10 constitutes or substitutes for any consent required pursuant to Sections 10.04 or 10.05.

3.11 Design.

The contents of this document are subject to restrictions on disclosure as set forth herein.

At no cost to SCE, Seller shall be responsible for:

- (a) Designing and constructing the Generating Facility;
- (b) Using commercially reasonable efforts to acquire all Permits;
- (c) Providing to SCE, at least thirty (30) days before the anticipated Commercial Operation Date, the following Generating Facility information:
 - (i) Site plan drawings for the Generating Facility;
 - (ii) Electrical one-line diagrams;
 - (iii) Control and data-acquisition details and configuration documents;
 - (iv) Major electrical equipment specifications;
 - (v) General arrangement drawings;

(vi) Longitude and latitude of the centroid of the Site;
{SCE Comment: Solar only}

Longitude and latitude of each generator;
{SCE Comment: All other technologies}

- (vii) Artist renderings of the Site, if any;
- (viii) Aerial photographs of the Site, if any;

- (ix) Site plan drawing of the geothermal well field;
- (x) Process flow diagrams;
- (xi) Piping and instrumentation diagrams;
- (xii) Production well flow rates;
- (xiii) Injection well flow rates and volumes;
- (xiv) Wellhead pressures;
- (xv) Geothermal fluid chemistry;
- (xvi) Non-condensable gas composition;
- (xvii) Current Inverter specification;
- (xviii) Photovoltaic Module specification;
- (xix) Solar energy collection grid diagrams;
- (xx) Wind Turbine specification;
- (xxi) Wind energy collection grid diagrams;
- (xxii) Topographical maps showing the location of all Wind Turbines, and specifying the Wind Turbine model and Site-specific identification number; and

The contents of this document are subject to restrictions on disclosure as set forth herein.

(xxiii) Map showing the location of the Meteorological Equipment, including specifying the longitude and latitude of such.

(xxiv) Copies of all Shared Facilities Agreements.

{SCE Comment: Include subsections above when applicable to the Generating Facility.}

- (d) Providing SCE advance Notice at the earliest practicable time of any proposed material changes in the Generating Facility, but in no event less than thirty (30) days before the changes are to be made, which Notice must include the information set forth in Section 3.11(c), along with all specifications and drawings pertaining to any such changes and any changes to Exhibit B. SCE shall retain the right to review such proposed changes and accept or reject such changes in its sole discretion.
- (e) Providing to SCE, prior to commencement of any construction activities on the Site, a report from an independent engineer (acceptable to both SCE and Seller) certifying that Seller has a written plan for the safe construction and Operation of the Generating Facility in accordance with Prudent Electrical Practices.

3.12 Operation and Record Keeping.

- (a) Seller shall Operate the Generating Facility in accordance with Prudent Electrical Practices.
- (b) Seller shall comply with Operating orders in compliance with the CAISO Tariff.
- (c) On or prior to the Commercial Operation Date:
 - (i) SCE shall have obtained or waived CPUC Approval;
 - (ii) Seller shall obtain CEC Pre-Certification;
 - (iii) Seller shall take all steps necessary to ensure that SCE becomes authorized by the CAISO to Schedule the electric energy produced by the Generating Facility with the CAISO;
 - (iv) SCE shall have been authorized by the CAISO to Schedule the electric energy produced by the Generating Facility with the CAISO;
 - (v) Seller shall demonstrate to SCE's reasonable satisfaction that Seller has executed all necessary Transmission Provider and CAISO agreements;
 - (vi) Seller shall provide to SCE the DLF used by the Transmission Provider in the administration of the transmission service agreement for the Generating Facility;
 - (vii) Seller shall be Forecasting to SCE in accordance with Exhibit D;

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (viii) Seller shall commence delivering electric energy to SCE at the Delivery Point and the Generating Facility is operating in parallel with Seller's Transmission Provider;
- (ix) Seller shall have installed and placed in operation all equipment and systems required under Section 3.08;
{SCE Comment: Intermittent only.}
- (x) Seller shall have registered with the NERC as the Generating Facility's Generator Owner and Generator Operator if Seller is required to be a registered entity pursuant to the NERC Reliability Standards; and
- (xi) Seller shall have furnished to SCE all insurance documents required under Section 10.11.
- (d) Seller shall keep a daily operations log for the Generating Facility that shall include the following information:
 - (i) Availability of the Generating Facility;
{SCE Comment: All technologies except Solar Photovoltaic.}
 - Availability of the Inverter Block Units and associated Current Inverters;
{SCE Comment: Solar Photovoltaic only.}
 - (ii) Circuit breaker trip operations;
 - (iii) Any significant events related to the Operation of the Generating Facility;
 - (iv) Real and reactive power and energy production;
 - (v) Changes in Operating status;
 - (vi) Protective apparatus operations;
 - (vii) Any unusual conditions found during inspections;
 - (viii) Electric energy production, fuel consumption and efficiency (if applicable); and
 - (ix) Status and settings of generator controls including automatic voltage regulator and power system stabilizer.
- (e) Seller shall log changes in the generator output setting if it is "block-loaded" to a specific kW capacity.
{SCE Comment: Baseload only.}
- Seller shall maintain complete records of the Generating Facility's wind speeds and other pertinent meteorological conditions and operational status of each Wind Turbine.
{SCE Comment: Wind only.}

Seller shall maintain complete records of the Generating Facility's direct normal insolation, other pertinent meteorological conditions and operational status of each Solar Generating Unit.

{SCE Comment: Solar Thermal only.}

Seller shall maintain complete records of the Generating Facility's plane of array insolation, other pertinent meteorological conditions and operational status of each Inverter Block Unit.

{SCE Comment: Solar Photovoltaic only.}

Seller shall maintain complete records of the Generating Facility's fuel consumption if a biomass or landfill generating facility, or geothermal fluid consumption if a geothermal generating facility.

{SCE Comment: Biomass and Geothermal only.}

- (f) Seller shall keep a maintenance log for the Generating Facility that shall include information on maintenance (both breakdown and preventative) performed, outages, inspections, manufacturer recommended services and replacement, electrical characteristics of the generators, control settings or adjustments of equipment and protective devices.

Seller shall maintain documentation of all procedures applicable to the testing and maintenance of the Generating Facility protective devices as necessary to comply with NERC Reliability Standards applicable to protection systems for large electric generators, if Seller is required to be a registered entity pursuant to the NERC Reliability Standards.

Such information in Sections 3.12(d), 3.12(e) and 3.12(f) above shall be provided or made available to SCE within twenty (20) days after any Notice.
- (g) Seller shall promptly curtail the production of the Generating Facility:
 - (i) Upon Notice from SCE that Seller has been instructed by the CAISO or Transmission Provider to curtail energy deliveries; *provided*, solely the action of the CAISO issuing a Schedule shall not by itself constitute an instruction by the CAISO to curtail energy deliveries pursuant to this Section 3.12(g)(i);
 - (ii) Upon Notice that Seller has been given a curtailment order or similar instruction in order to respond to an Emergency; or
 - (iii) If SCE issues a Curtailment Order.
- (h) Information maintained pursuant to this Section 3.12 shall be kept by Seller throughout the Delivery Term and shall be provided or made available to SCE within twenty (20) days after any Notice.
- (i) Seller must be interfaced with SCE's Generation Management System and be responsive to 5-minute Dispatch Instruction and other applicable CAISO Tariff rules.

The contents of this document are subject to restrictions on disclosure as set forth herein.

3.13 Obtaining Scheduling Coordinator Services.

Seller shall comply with all applicable CAISO Tariff procedures, protocol, rules and testing as necessary for SCE to submit Bids for the electric energy produced by the Generating Facility.

(a) Designating SCE as Scheduling Coordinator.

- (i) At least thirty (30) days before the Commercial Operation Date, Seller shall take all actions and execute and deliver to SCE all documents necessary to authorize or designate SCE as the Scheduling Coordinator throughout the Delivery Term.
- (ii) Throughout the Delivery Term, Seller shall not authorize or designate any other party to act as Scheduling Coordinator, nor shall Seller perform, for its own benefit, the duties of Scheduling Coordinator.
- (iii) Seller is responsible for and shall pay SCE an amount equal to the costs (including the costs of SCE employees or agents) SCE incurs, as determined in SCE's sole discretion, as a result of SCE being designated as the Generating Facility's Scheduling Coordinator including the costs associated with the registration of the Generating Facility with the CAISO, and the installation, configuration, and testing of all equipment and software necessary for SCE to act as Scheduling Coordinator or to Schedule the Generating Facility ("SC Set-Up Fee"); *provided*, the SC Set-up Fee shall not exceed \$20,000.

(b) Replacement of SCE as Scheduling Coordinator.

At least forty-five (45) days before the end of the Term, or as soon as practicable before the date of any termination of this Agreement before the end of the Term, Seller shall take all actions necessary to terminate the designation of SCE as Seller's Scheduling Coordinator as of hour ending 24:00 on the last day of the Term. These actions include the following:

- (i) Seller shall submit to the CAISO a designation of a new Scheduling Coordinator for Seller to replace SCE;
- (ii) Seller shall cause the newly designated Scheduling Coordinator to submit a letter to the CAISO accepting the designation; and
- (iii) Seller shall inform SCE of the last date on which SCE will be Seller's Scheduling Coordinator. SCE must consent to any date other than the last day of the Term, such consent not to be unreasonably withheld.

3.14 Forecasting.

Seller shall Forecast in accordance with the provisions of Exhibit D.

Seller shall use commercially reasonable efforts to Operate the Generating Facility so that the available capacity or electric energy from the Generating Facility conforms with Forecasts provided in accordance with Exhibit D.

3.15 Scheduled Outages.

- (a) Commencing at least sixty (60) days before the Commercial Operation Date and throughout the Delivery Term, Seller shall, no later than January 1, April 1, July 1 and October 1 of each year, submit to SCE, using the Web Client, Seller's schedule of proposed planned outages ("Outage Schedule") for the subsequent twenty-four month period.
- (b) Seller shall provide the following information for each proposed planned outage:
 - (i) Start date and time;
 - (ii) End date and time; and
 - (iii) Capacity online, in MW, during the planned outage.
- (c) Within thirty (30) days after SCE's receipt of an Outage Schedule, SCE shall notify Seller in writing of any reasonable request for changes to the Outage Schedule, and Seller shall, consistent with Prudent Electrical Practices, accommodate SCE's requests regarding the timing of any planned outage.
- (d) Seller shall cooperate with SCE to arrange and coordinate all Outage Schedules with the CAISO.
- (e) If a condition occurs at the Generating Facility which causes Seller to revise its planned outages, Seller shall promptly provide Notice to SCE, using the Web Client, of such change (including an estimate of the length of such planned outage) as required in the CAISO Tariff after the condition causing the change becomes known to Seller.
- (f) Seller shall promptly prepare and provide to SCE upon request, using the Web Client, all reports of actual or forecasted outages that SCE may reasonably require for the purpose of enabling SCE to comply with Section 761.3 of the California Public Utilities Code or any Applicable Law mandating the reporting by investor owned utilities of expected or experienced outages by electric energy generating facilities under contract to supply electric energy.

3.16 Progress Reporting Toward Meeting Milestone Schedule.

Seller shall use commercially reasonable efforts to meet the Milestone Schedule and avoid or minimize any delays in meeting this schedule. Seller shall provide a monthly written report of its progress toward meeting the Milestone Schedule using the procedures set forth in Exhibit H.

Seller shall include in such report a list of all letters, notices, applications, approvals, authorizations, filings, permits and licenses relating to any Transmission Provider,

Governmental Authority or the CAISO and shall provide any such documents as may be reasonably requested on Notice from SCE.

In addition, Seller shall advise SCE as soon as reasonably practicable of any problems or issues of which Seller is aware which may materially impact Seller's ability to meet the Milestone Schedule.

A report delivered pursuant to this Section 3.16 shall not constitute Notice for any purpose under this Agreement, including with respect to any fact, circumstance, request, issue, dispute or matter included in such report.

3.17 Provision of Information.

Seller shall promptly provide to SCE copies of:

- (a) Within ten (10) Business Days of receipt thereof, copies of any Interconnection Study or the interconnection agreement tendered to Seller by the Transmission Provider and, concurrently with the provision of the first Interconnection Study or interconnection agreement tendered to Seller by the Transmission Provider that may give rise to a termination right of SCE under Section 2.03(b), Seller shall also provide SCE a Notice of Seller's irrevocable election to exercise or not exercise its right to assume financial responsibility for any Excess Network Upgrade Costs pursuant to Section 2.03(b), with a failure to provide such an election deemed to be an election not to exercise such rights;
- (b) All applications and approvals or disapprovals relating to CEC Pre-Certification, CEC Certification, CEC Verification, any Permit and PIRP/EIRP (in the event SCE requests Seller to apply to be in PIRP/EIRP);
- (c) All final and revised copies of material reports, studies and analyses furnished by the CAISO or any Transmission Provider, and any correspondence related thereto, concerning the interconnection of the Generating Facility to the Transmission Provider's electric system or the transmission of electric energy on the Transmission Provider's electric system;
- (d) All notifications of adjustments in the DLF used by the Transmission Provider in the administration of the transmission service agreement for the Generating Facility within thirty (30) days of receiving such notification from the Transmission Provider;

- (e) A copy of the Final Wind Report, and any updates thereafter for the time period beginning on the Effective Date and ending on the last day of the first Term Year;
{SCE Comment: Wind only.}

All Geothermal Reservoir Reports, and any revisions thereto, for the time period beginning on the Effective Date and ending on the last day of the first Term Year;
{SCE Comment: Geothermal only.}

All Solar Resource Evaluation Reports, and any revisions thereto, for the time period beginning on the Effective Date and ending on the last day of the first Term Year;
{SCE Comment: Solar only.}

- (f) Any reports, studies, or assessments of the Generating Facility prepared for Seller by an independent engineer; and
- (g) All Generating Facility and metering information as may be requested by SCE, including the following, at least thirty (30) days before the Commercial Operation Date:

For each CAISO Approved Meter:

- (i) Generating Station/Unit ID;
- (ii) CAISO Resource ID;
- (iii) CAISO Approved Meter Device ID;
- (iv) Password;
- (v) Data path (network (ECN) or modem);
- (vi) If modem, phone number;
- (vii) Copy of meter certification;
- (viii) List of any CAISO metering exemptions (if any); and
- (ix) Description of any compensation calculations such as transformer losses and line losses.

For the Generating Facility:

- (1) Utility transmission/distribution one line diagram;
- (2) Physical location, address or descriptive identification;

(3) Latitude and longitude of *[the centroid and each corner of the Site]* *{SCE Comment: For solar only}* *[each generator of the Generating Facility]* *{SCE Comment: For all other technologies}* *[, and all Meteorological Equipment];*
{SCE Comment: Intermittent only.}

- (4) Telephone number on site;
- (5) Telephone number of control room;
- (6) Telephone number for operational issues; and
- (7) Telephone number for administrative issues.

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (h) The names of the Interconnection Point and the Delivery Point within thirty (30) days after Seller's receipt of such information from the Transmission Provider or CAISO, as applicable.

{SCE Comment: Applicable if the official names of the Interconnection Point or Delivery Point are not known as of the Effective Date.}

- (i) No later than twenty (20) days after each semi-annual period ending on June 30th or December 31st, a report listing all Diverse Business Enterprises that supplied goods or services to Seller during such period, including any certifications or other documentation of such Diverse Business Enterprises status as such and the aggregate amount paid to Diverse Business Enterprises during such period.
- (i) SCE has the right to disclose to the CPUC all such information provided by Seller pursuant to this Section 3.17(i).
- (ii) Seller shall make reasonable efforts to accommodate requests by the CPUC (or by SCE in response to a request by the CPUC) to audit Seller in order to verify data provided by Seller pursuant to this Section 3.17(i).
- (j) Internal Revenue Service tax Form W-9 and California tax Form 590 (or their equivalent), completed with Seller's information, and any other documentation necessary for SCE to comply with its tax reporting or withholding obligations with respect to Seller, within ten (10) Business Days of Seller's receipt of Notice from SCE requesting the same.

- (k) Any and all certifications or other documentation that may be deemed necessary by the Green-e® Energy National Standard or SCE to authenticate the Generating Facility's eligibility for Green-e® Energy, and any and all forms, disclosures or other documentation in connection with the annual Green-e® Energy verification and audit.
- {SCE Comment: Only applicable to GTSR Green Rate Projects only.}*

3.18 SCE's Access Rights.

Seller hereby grants SCE the right of ingress and egress to examine the Site, Generating Facility and Shared Facilities (if applicable) for any purpose reasonably connected with this Agreement or the exercise of any and all rights of SCE under Applicable Law or SCE's tariff schedules and rules on file with the CPUC. When at the Site, SCE, its authorized agents, employees and inspectors shall adhere to safety and security procedures as may reasonably be required by Seller, provided Seller has provided such procedures to SCE in writing in advance.

3.19 Obtaining and Maintaining CEC Certification, and CEC Verification.

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (a) Within thirty (30) days after the Commercial Operation Date, Seller shall file an application or other appropriate request with the CEC for CEC Certification for the Generating Facility.
- (b) Subject to Section 1.0807, Seller shall take all necessary steps, including making or supporting timely filings with the CEC, to obtain and maintain CEC Certification and CEC Verification throughout the Delivery Term.
- (c) Upon request by SCE, Seller shall provide copies of all correspondence and documentation exchanged between the CEC and Seller.

3.20 Notice of Cessation or Termination of Service Agreements.

Seller shall provide Notice to SCE within one (1) Business Day after termination of, or cessation of service under, any agreement necessary to deliver Product to SCE at the Delivery Point or to meter the Metered Amounts.

3.21 Lost Output Report.

(a) Monthly Report; SCE Review.

Commencing on the Commercial Operation Date and continuing throughout the Term, Seller shall calculate Lost Output and prepare and provide to SCE a Lost Output Report by the tenth (10th) Business Day of each month in accordance with Exhibit K.

SCE will have thirty (30) days after receipt of Seller's monthly Lost Output Report or Supplemental Lost Output Report to review such report.

Upon SCE's request, Seller shall promptly provide to SCE any additional data and supporting documentation necessary for SCE to audit and verify any matters in the Lost Output Report.

(b) Disputes of Lost Output.

If SCE disputes Seller's Lost Output calculation, SCE shall provide Notice to Seller within thirty (30) days after receipt of Seller's Lost Output Report and include SCE's calculations and other data supporting its position.

The Parties shall negotiate in good faith to resolve any dispute.

If the Parties are unable to resolve a dispute within thirty (30) days after SCE's giving the dispute Notice, either Party may submit the dispute to mediation and arbitration as provided in Article Twelve.

Seller will have no right to claim any Lost Output for any month that was not identified in the original Lost Output Report for that month; *provided*, Seller may supplement the amount of Lost Output claimed ("Supplemental Lost Output") for the month with a supplemental Lost Output Report ("Supplemental Lost Output Report") if Seller can demonstrate that Seller neither knew nor could have known through the exercise of reasonable diligence about the Supplemental Lost Output within the foregoing thirty (30) day period and Seller provides the Supplemental

The contents of this document are subject to restrictions on disclosure as set forth herein.

Lost Output Report within ten (10) Business Days after learning the facts which provide the basis for the Supplemental Lost Output claim; *provided further*, in no event will SCE be obligated to accept a Supplemental Lost Output Report after thirty (30) days following the end of the applicable Term Year.

(c) Product Replacement Damage Amount Calculation.

The Lost Output amount that will be used by SCE in the Product Replacement Damage Amount calculation, set forth in Exhibit F, will be the amount calculated pursuant to Exhibit K or otherwise resolved pursuant to Section 3.21(b).

3.22 Actual Availability Report.

- (a) Throughout the Delivery Term, Seller shall prepare and provide to SCE a report with the Actual Available Capacity of the Generating Facility (an “Actual Availability Report”) for each month.

This report must be in the form set forth in Exhibit ~~NO~~ and must be delivered to SCE no later than the seventh (7th) Business Day following the end of the month which is the subject of the Actual Availability Report.

- (b) Upon SCE’s request, Seller shall promptly provide to SCE any additional data and supporting documentation necessary for SCE to audit and verify any matters set forth in the Actual Availability Report.

3.23 Seller’s Provision of Historic Wind Data.

- (a) Seller shall provide to SCE a minimum of one (1) year of recorded meteorological data from the Site not later than ninety (90) days before the Commercial Operation Date.

Seller may provide data from additional years if any such data is available.

- (b) Data Parameters.

For each equipment station that is installed, Seller shall provide the following data to the extent such data has been recorded:

- (i) Wind direction;
- (ii) Wind speed;
- (iii) Air temperature;
- (iv) Barometric pressure;
- (v) Relative humidity;
- (vi) Elevation of the station; and
- (vii) Latitude and longitude of the station.

- (c) Format of Data.

The contents of this document are subject to restrictions on disclosure as set forth herein.

Seller shall provide the data:

- (i) In the format to be specified by SCE; and
- (ii) In the interval in which such data was recorded.

{SCE Comment: For Wind only. SCE will require such information from Seller if the Site is in an area for which SCE has no historic information.}

3.24 Seller's Provision of Historic Solar Data.

- (a) Seller shall provide to SCE a minimum of one (1) year of recorded meteorological data from the Site not later than ninety (90) days before the Commercial Operation Date.

Seller may provide data from additional years if any such data is available.

- (b) Data Parameters.

For each equipment station that is installed, Seller shall provide the following data to the extent such data has been recorded:

- (i) Total global irradiance;
- (ii) Wind direction;
- (iii) Wind speed;
- (iv) Air temperature;
- (v) Barometric pressure;
- (vi) Relative humidity;
- (vii) Elevation of the station; and
- (viii) Latitude and longitude of the station.

- (c) Format of Data.

Seller shall provide the data:

- (i) In the format to be specified by SCE; and
- (ii) In the interval in which such data was recorded.

{SCE Comment: Solar only.}

3.25 Hydro Certification.

Seller shall provide to SCE a copy of the certification identified in Public Utilities Code Sections 2821(d)(1) and (e)(1) as evidence of Seller's compliance with Public Utilities Code Section 2821(c) within thirty (30) days of Seller's receipt of such documentation from the State Water Resources Control Board but in no event later than sixty (60) days after Commercial Operation ("Hydro Certification").

{SCE Comment: Hydro only.}

3.26 NERC Reliability Standards.

Throughout the Delivery Term, Seller shall be:

- (a) Responsible for complying with any NERC Reliability Standards applicable to the Generating Facility, including registration with NERC as the Generator Operator for the Generating Facility or other applicable category under the NERC Reliability Standards and implementation of all applicable processes and procedures required by NERC, WECC or CAISO for compliance with the NERC Reliability Standards; and
- (b) Liable for all penalties assessed by NERC (through WECC, the CAISO or otherwise) for violations of the NERC Reliability Standards by the Generating Facility or Seller, as Generator Operator or other applicable category.

However, if Seller learns that NERC (through WECC or otherwise) is considering or intends to assess Seller with a penalty that Seller believes is attributable to SCE's actions or inactions as SC as described in the document entitled "NERC Reliability Standards - Responsibilities of the Generator Operator, Scheduling Coordinator, CAISO, and Reliability Coordinator" or other successor description or document on the CAISO website at the time of the potential assessment, Seller shall provide SCE with sufficient notice to allow SCE to take part in administrative processes, discussions or settlement negotiations with NERC, WECC or other entity arising from or related to the alleged violation or possible penalty. If the penalty is nonetheless assessed in spite of SCE's participation in the processes, discussions or settlement negotiations, or SCE waives its right to take part in the processes, discussion or settlement negotiations, SCE shall reimburse Seller for the penalty to the extent that:

- (c) It was solely caused by SCE's actions or inactions as SC as described in the document entitled "NERC Reliability Standards - Responsibilities of the Generator Operator, Scheduling Coordinator, CAISO, and Reliability Coordinator" or other successor description or document on the CAISO website at the time of the violation; and
- (d) Seller can establish to SCE's reasonable satisfaction that the penalty was actually assessed against Seller by NERC and paid by Seller to NERC.

3.27 Application of Prevailing Wage.

To the extent applicable, Seller shall comply with the prevailing wage requirements of Public Utilities Code Section 399.14, subdivision (h).

3.28 Interconnection Affiliate and Affiliate Manager Action.

Any obligation or action required of Seller under this Agreement shall, as applicable, also include an obligation that Seller cause the Interconnection Affiliate and/or the Affiliate Manager to fulfill such obligation or take such required action. *{SCE Comment: Language applicable to projects that utilize Shared Facilities.}*

*** End of ARTICLE THREE ***

The contents of this document are subject to restrictions on disclosure as set forth herein.

ARTICLE FOUR. SCE'S OBLIGATIONS**4.01 Obligation to Pay and Invoice.**

- (a) SCE shall provide information to Seller regarding CAISO Revenues, CAISO Costs, CAISO Sanctions, and SCE Penalties and shall pay Seller, all in accordance with Exhibit E.
- (b) Throughout the Delivery Term, SCE shall purchase Product generated by the Generating Facility and delivered at the Delivery Point in accordance with this Agreement, CAISO Tariff and Applicable Law, provided, subject to Section[s] 4.01(c) [and 4.01(d)] *{SCE Comment: For Sellers that are eligible for the Federal Production Tax Credit.}*, SCE has no obligation to purchase from Seller any Product that is not or cannot be delivered to the Delivery Point as a result of any circumstance, including:
 - (i) An outage of the Generating Facility;
 - (ii) A Force Majeure under Article Five; or
 - (iii) A reduction or curtailment of deliveries in accordance with Section 3.12(g), except as set forth in Section 4.01(c).
- (c) Subject to Section 4.01(e), SCE will be obligated to pay Seller for any CP in each Term Year, in accordance with Exhibit E.
- (d) SCE shall compensate Seller for lost Federal Production Tax Credits associated with the cumulative amount of Paid Curtailed Product in each Term Year, at the then applicable Federal Production Tax Credit rate times *[TBD]* in order to “gross-up” the lost Federal Production Tax Credit. Seller shall provide SCE with documentation that establishes to SCE’s reasonable satisfaction that (i) Seller is entitled to receive Federal Production Tax Credits for the Paid Curtailed Product; and (ii) the amount of the compensation due under this Section 4.01(d). *{SCE Comment: For Sellers that are eligible for the Federal Production Tax Credit}*
- (e) SCE will not be obligated to pay Seller for any Product that Seller delivers in violation of Section 3.12(g), and Seller shall pay all CAISO Sanctions and CAISO Costs, and SCE shall retain all CAISO Revenues resulting from such violation of Section 3.12(g).

4.02 SCE’s Check Meter.**(a) Providing Access to Seller.**

Before Commercial Operation, SCE shall provide to Seller remote access to the Check Meter through a website as specified by SCE. SCE may change the website and protocols from time to time. *{SCE Comment: Language only applicable to projects that do not utilize a shared transformer.}*

(b) Testing of Check Meter.

SCE may test and recalibrate the Check Meter(s) at least once every Term Year. The Check Meter(s) will be locked or sealed, and the lock or seal will be broken, only by a SCE representative. Seller has the right to be present whenever such lock or seal is broken. SCE shall replace the battery of the Check Meter(s) at least once every 36 months; *provided*, if a Check Meter battery fails, SCE shall promptly replace such battery.

(c) Use of Check Meter for Back-Up Purposes.

- (i) SCE shall routinely compare the Check Meter data to the CAISO Approved Meter data after adjusting the Check Meter for any compensation introduced by the CAISO into the CAISO Approved Meter.
- (ii) If the deviation between the CAISO Approved Meter data and the Check Meter data for any comparison is greater than 0.3%, SCE shall provide Notice to Seller of such deviation and the Parties will mutually arrange for a meter check or recertification of the Check Meter or CAISO Approved Meter, as applicable.
- (iii) SCE will bear its own costs for any meter check or recertification of the Check Meter.

{SCE Comment: Language only applicable to projects that do not utilize a shared transformer.}

- (i) SCE may routinely compare the Check Meter data to the CAISO Approved Meter data after adjusting the Check Meter(s) for any compensation introduced by the CAISO into the CAISO Approved Meter(s).
- (ii) If the deviation between the CAISO Approved Meter data and the Check Meter data for any comparison is greater than 0.3%, SCE shall have the option to provide Notice to Seller of such deviation and the Parties shall mutually arrange for a meter check or recertification of the Check Meter(s) or CAISO Approved Meter(s), as applicable.
- (iii) Seller will bear its own costs for any meter check or recertification of the Check Meter(s).

{SCE Comment: Language only applicable to projects that utilize a shared transformer.}

- (d) Testing procedures and standards for the Check Meter(s) will be the same as for a comparable SCE-owned revenue-grade meter. Seller has the right to have representatives present during all such tests.

4.03 Scheduling Coordinator.

Commencing on the Commercial Operation Date, SCE shall act as Seller's Scheduling Coordinator and carry out all duties as Scheduling Coordinator in accordance with CAISO Tariff protocols.

4.04 Termination of Scheduling Coordinator.

SCE shall submit a letter to the CAISO identifying the date on which SCE resigns as Seller's Scheduling Coordinator on the first to occur of the following:

- (a) Thirty (30) days before the end of the Term;
- (b) The date of any Notice from Seller of suspension of its performance pursuant to Section 6.02; or
- (c) The date of any early termination of this Agreement.

4.05 Exclusive Rights to Product and Cost Responsibility.

- (a) SCE has the exclusive right, at any time or from time to time, to sell, assign, convey, transfer, allocate, designate, award, report or otherwise provide any and all such Green Attributes, Capacity Attributes or Resource Adequacy Benefits conveyed by Seller to SCE during the Delivery Term to third parties; *provided*, no such action constitutes a transfer of, or a release of SCE of, its obligations under this Agreement.
- (b) Subject to Seller's obligations under this Agreement, including, without limitation, Sections 3.01, [3.02,] 3.08, 3.12, 3.19, [6.01(b)(xxiv)] and 10.03(b), SCE shall be responsible for any costs arising from or directly related to SCE's accounting for or otherwise claiming Green Attributes, Capacity Attributes and Resource Adequacy Benefits.

*** End of ARTICLE FOUR ***

ARTICLE FIVE. FORCE MAJEURE**5.01 No Default for Force Majeure.**

Neither Party will be considered to be in default in the performance of any of its obligations set forth in this Agreement ~~(except for obligations to pay money)~~ when and to the extent failure of performance is caused by Force Majeure; provided, a failure to make payments when due that accrued prior to the Force Majeure event shall not be excused.

5.02 Requirements Applicable to the Claiming Party.

If ~~a Party~~, because of Force Majeure, either Party is ~~rendered wholly or partly~~ unable to perform its obligations ~~when due~~ under this Agreement, ~~that such~~ Party (the "Claiming Party"), ~~will~~shall be excused from whatever performance is affected by the Force Majeure only to the extent so affected, ~~provided, the Claiming Party must have complied with (a) and (b) directly below:~~

~~In order to be excused from its performance obligations hereunder by reason of Force Majeure:~~

- (a) The Claiming Party, ~~within no more than~~ fourteen (14) days after the initial occurrence of the claimed Force Majeure, ~~must give~~gives the other Party Notice describing the particulars of the occurrence; ~~and~~
- (b) The Claiming Party must provide timely evidence reasonably sufficient to establish that the occurrence constitutes Force Majeure as defined in this Agreement.

~~The~~the suspension of ~~the Claiming Party's~~ performance ~~due to Force Majeure will be~~ of no greater scope and of no longer duration than is required by the Force Majeure:

- (c) ~~In addition, the Claiming Party shall use commercially reasonable; and diligent efforts to remedy its inability to perform.~~

~~This Section 5.02 does not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Claiming Party, are contrary to its interest as soon as~~

~~It is understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes will be at the sole discretion of the Claiming Party.~~

- (d) ~~When the~~ Claiming Party is able to resume performance of its obligations under this Agreement, ~~the Claiming Party it shall do so and~~ shall promptly give the other Party ~~prompt~~ Notice ~~to that effect of this resumption.~~

5.03 Commercial Operation Deadline Extension.

If the Commercial Operation Date does not occur on or before the Forecasted Commercial Operation ~~Deadline Date~~ as the result of a Force Majeure occurring before the Forecasted Commercial Operation ~~Deadline Date~~ and Seller is the Claiming Party, then the Forecasted Commercial Operation ~~Deadline Date~~ will, subject to Sections 1.03

and 5.04 and Seller's compliance with its obligations as the Claiming Party under Section 5.02, be extended on a day-for-day basis for the duration of the Force Majeure; provided, if (i) the Commercial Operation Date does not occur before the Commercial Operation Deadline and (ii) such Force Majeure extension coincides with and is beyond the Commercial Operation Deadline, then either Party may terminate this Agreement on Notice, which will be effective five (5) Business Days after such Notice is provided.

5.04 Termination.

Either Party may terminate this Agreement on Notice, which will be effective five (5) Business Days after such Notice is provided, if (a) an event of Force Majeure extends for more than three hundred sixty-five (365) consecutive days and materially and adversely affects the operations of the Claiming Party, or (b) the Generating Facility is destroyed or rendered inoperable by a Force Majeure, and an independent, third-party engineer determines in writing that the Generating Facility cannot be repaired or replaced within ~~twenty-four (24)~~six (6) months after the first day of such Force Majeure.

If either Party exercises its termination right pursuant to this Section 5.04, no Termination Payment will be due owing by either Party, and Seller will be entitled to a return of any Performance Assurance or Development Security.

*** End of ARTICLE FIVE ***

ARTICLE SIX. EVENTS OF DEFAULT; REMEDIES**6.01 Events of Default.**

An “Event of Default” means, with respect to a Party (a “Defaulting Party”), the occurrence of any of the following:

(a) With respect to either Party:

- ~~(i)~~ Any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated if the representation or warranty is continuing in nature, *provided, if:*
 - (i) ~~The the~~ misrepresentation or breach of warranty is capable of a cure, an Event of Default will be deemed to occur if the misrepresentation or breach of warranty is not remedied within five (5) Business Days after Notice from the non-breaching Party; ~~or~~
(1)
~~(2) Such The misrepresentation or breach of warranty is not capable of a cure, but the non-breaching Party's damages resulting from the inaccuracy can reasonably be ascertained, an Event of Default will be deemed to occur if the payment of such damages is not made within ten (10) Business Days after a Notice of these damages is provided from the non-breaching Party;~~
 - (ii) ~~Except for an obligation to make payment when due, the failure~~ Party fails to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default specified below or to the extent excused by a Force Majeure) if ~~this~~ such failure is not remedied within thirty (30) days after Notice of the failure, which Notice sets forth in reasonable detail the nature of the failure; *provided, if* the failure is not reasonably capable of being cured within the thirty (30) day cure period specified above, the Party will have such additional time (not exceeding an additional ~~one hundred twenty (120)~~ sixty (60) days) as is reasonably necessary to cure the failure, so long as the Party promptly commences and diligently pursues the cure;
 - (iii) ~~A~~ Such Party fails to make when due any payment required under this Agreement and this failure is not cured within five (5) Business Days after Notice of the failure; ~~or~~
 - (iv) A Party becomes Bankrupt; ~~or~~
 - ~~(v) A Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the~~

The contents of this document are subject to restrictions on disclosure as set forth herein.

~~resulting, surviving or transferee entity fails to assume all the obligations of that Party under this Agreement either by operation of law or pursuant to an agreement reasonably satisfactory to the other Party.~~

(b) With respect to Seller:

- (i) Seller fails to satisfy the credit and collateral requirements set forth in Article 8, including failure to post or maintain any Development Security and/or Performance Assurance, and such failure is not cured within three (3) Business Days after Notice from SCE;

~~(ii) [Intentionally Deleted];~~

~~(iii)~~(ii) Commercial Operation does not occur on or before the Commercial Operation Deadline;

~~(iv)~~(iii) Except as permitted in Sections 10.04 and 10.05, Seller does not own or otherwise have control of the Generating Facility;

~~(v)~~(iv) Seller does not have Site Control *[for Shared Facilities Control]* in accordance with Section 3.09 and Seller has not cured such failure within sixty (60) days after the occurrence of the event which results in the failure; *{SCE Comment: Bracketed language only applicable to projects that have Shared Facilities.}*

~~(vi)~~(v) The sum of Qualified Amounts plus Lost Output in any consecutive six (6) month period is not at least ten percent (10%) of the Expected Annual Net Energy Production, and Seller fails to demonstrate to SCE's reasonable satisfaction, within ten (10) Business Days after Notice from SCE, a legitimate reason for the failure to meet the ten percent (10%) minimum;

~~(vii)~~(vi) The Metered Amounts in any one hour interval, in kWh, exceed one hundred fifteen percent (115%) of the Contract Capacity, in kW, to this Agreement, (an "Event of Excess Deliveries"), without the prior written consent of SCE, and within ten (10) Business Days after Notice from SCE, Seller fails to demonstrate to SCE's satisfaction that Seller has identified the reason that the Event of Excess Deliveries occurred and that Seller has employed or is employing best efforts to ensure that no additional Events of Excess Deliveries will occur throughout the Delivery Term;
{SCE Comment: Baseload only.}

~~(viii)~~(vii) Seller intentionally or knowingly Forecasts or delivers, or attempts to Forecast or deliver, at the Delivery Point for sale under this Agreement electric energy that was not in fact generated by the Generating Facility;

~~(ix)~~(viii) Seller installs generating capacity in excess of the Contract Capacity and such excess generating capacity is not removed within five

(5) Business Days after Notice from SCE; *{SCE Comment: Intermittent only}*

~~(*)~~(ix) Seller installs direct current electric energy generating capacity in excess of the Installed DC Rating and such excess direct current energy generating capacity is not removed within five (5) Business Days after Notice from SCE;
{SCE Comment: For Solar Photovoltaic.}

~~(*)~~(x) Seller removes from the Site equipment upon which the Contract Capacity has been based, except for the purposes of replacement, refurbishment, repair or maintenance, and the equipment is not returned within five (5) Business Days after Notice from SCE;

~~(*)~~(xi) _____ The Generating Facility consists of an ERR type(s) different than that specified in Section 1.01(g);

~~(*)~~(xii) _____ Except where there has been a change in Applicable Laws that would affect Seller's status as an ERR, and Seller has made commercially reasonable efforts in accordance with Section 10.02(b) to comply with the change in law, the Generating Facility fails to qualify as an ERR;

~~(*)~~(xiii) _____ Except where there has been a change in Applicable Law that would affect the eligibility of electric energy to qualify as renewable energy for the purposes of the RPS Legislation and Seller has made commercially reasonable efforts in accordance with Section 10.02(c) to comply with the change in law, any electric energy from the Generating Facility and sold or to be sold to SCE hereunder fails to qualify as eligible renewable energy for purposes of the RPS Legislation;

~~(*)~~(xiv) _____ A termination of, or cessation of service under, any agreement necessary for Seller:

- (1) To interconnect the Generating Facility to the Transmission Provider's electric system;
- (2) To transmit the electric energy on the Transmission Provider's electric system; or
- (3) To comply with the CAISO Tariff;

provided, if SCE and Seller mutually agree that a termination of, or cessation of service under, any such agreement is not due to the fault of Seller, Seller shall have thirty (30) days from such termination or cessation to cure such default;

~~(*)~~(xv) _____ Subject to Section 1.0807, Seller fails to take any actions necessary to dedicate, convey or effectuate the use of any and all Green Attributes, Capacity Attributes and Resource Adequacy Benefits for SCE's sole benefit as specified in Section 3.01;

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~~(xvii)~~ ~~[Intentionally Deleted];~~

~~(xviii)~~(xvi) Subject to the terms of a Collateral Assignment Agreement, the occurrence and continuation of a default, event of default or other similar condition or event under one or more agreements or instruments relating to indebtedness for borrowed money, which results in the indebtedness becoming, or becoming capable at such time of being declared, immediately due and payable;

~~(xix)~~(xvii) The stock, equity ownership interest in Seller or assets of Seller has been pledged or assigned as collateral or otherwise to any party other than Lender;

~~(xx)~~(xviii) Seller transfers or assigns the Interconnection Queue Position or the interconnection agreement without the written consent of SCE;

~~(xix)~~ Seller consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of Seller under this Agreement either by operation of law or pursuant to an agreement reasonably satisfactory to SCE;

~~(xxi)~~(xx) Seller fails to provide Hydro Certification in accordance with Section 3.25;
{SCE Comment: Hydro only.}

~~(xxii)~~(xxi) Seller fails to take all commercially reasonable actions, including any actions required in Seller's interconnection agreement, to expeditiously obtain Full Capacity Deliverability Status.
{SCE Comment: FCDS projects only.}

~~(xxiii)~~(xxii) The CAISO Exemption is no longer in effect or Seller's continuing failure to comply with the CAISO Tariff due, in part, to the Shared Facilities; or

~~(xxiv)~~(xxiii) WREGIS, the CEC or the CPUC have disqualified, disallowed, or rejected any Renewable Energy Credits due to the Shared Facilities' metering scheme failing to meet any requirement. Upon Notice of an Event of Default pursuant to this Section 6.01(b)(xxiv), Seller or Seller's Ultimate Parent may cure the Event of Default within thirty (30) days of such Notice by paying to SCE an amount equal to the Product Price multiplied by a factor of 1.35, multiplied by the quantity of Renewable Energy Credits (as expressed in MWhs) that have been disqualified, disallowed, or rejected by WREGIS, CEC, or the CPUC.

The contents of this document are subject to restrictions on disclosure as set forth herein.

{SCE Comment: Language only applicable to projects that utilize a shared transformer.}

~~(xxv)~~(xxiv) Except as provided in Section 2.01(b), 3.05(a) or Section 10.18, Seller assigns or transfers its rights, obligations, interests, property or title under or in the interconnection agreement, in any Shared Facilities or in any Shared Facilities Agreement, without the consent of SCE;

~~(xxvi)~~(xxv) Except as provided in Section 2.01(b), 3.05(a) or Section 10.18, Seller's rights or obligations under the interconnection agreement or any Shared Facilities Agreement are amended or otherwise revised in a manner that would have an adverse effect on Seller's ability to perform hereunder, without the consent of SCE; or

~~(xxvii)~~(xxvi) Seller fails to maintain the required interconnection capacity pursuant to Section 3.05(a).

{SCE Comment: Language applicable to projects that utilize Shared Facilities.}

6.02 Early Termination.

If an Event of Default shall have occurred, the Party taking the default (the "Non-Defaulting Party") has the right:

- (a) To designate by Notice, which will be effective five (5) Business Days after the Notice is given, a day, no later than twenty (20) calendar days after the Notice is effective, for the early termination of this Agreement (an "Early Termination Date"); *provided*, a Non-Defaulting Party's right to terminate this Agreement pursuant to this Section 6.02(a) may only be exercised within one hundred and eighty (180) days from the date that the default giving rise to the applicable Event of Default is no longer continuing, or, if no cure period is provided for, from the date the Non-Defaulting Party becomes aware of the Event of Default; and
- (b) To pursue all remedies available at law or in equity against the Defaulting Party (including monetary damages), except to the extent that such remedies are limited by the terms of this Agreement.

Upon the effective designation of an Early Termination Date, the Non-Defaulting Party will have the right to immediately suspend performance under this Agreement, including performance under Section 3.03 but excluding the obligation to post and maintain Development Security and Performance Assurance in accordance with Article Eight.

{SCE Comment: Language only applicable to projects that do not utilize a shared transformer.}

- (a) If an Event of Default shall have occurred, the Party taking the default (the "Non-Defaulting Party") has the right:

- (i) To designate by Notice, which will be effective five (5) Business Days after the Notice is given, a day, no later than twenty (20) calendar days after the Notice is effective, for the early termination of this Agreement (an "Early Termination Date"). With the exception of Section 6.02(c), a Non-Defaulting Party's right to terminate this Agreement pursuant to this Section 6.02(a)(i) may only be exercised within one hundred and eighty (180) days from the date that the default giving rise to the applicable Event of Default is no longer continuing, or, if no cure period is provided for, from the date the Non-Defaulting Party becomes aware of the Event of Default; and
- (ii) To pursue all remedies available at law or in equity against the Defaulting Party (including monetary damages), except to the extent that such remedies are limited by the terms of this Agreement.

- (b) Upon the effective designation of an Early Termination Date, the Non-Defaulting Party will have the right to immediately suspend performance under this Agreement, including performance under Section 3.03 but excluding the obligation to post and maintain Development Security and Performance Assurance in accordance with Article Eight.
- (c) In the case of an Event of Default pursuant to Section 6.01(b)(xxiii), SCE shall have the right to suspend performance under the Agreement without having to designate an Early Termination Date. SCE may continue to suspend performance under the Agreement so long as the Event of Default is continuing; provided that such suspension period shall not last longer than three hundred and sixty-five (365) days commencing upon the date that the CAISO Exemption was no longer in effect. During any such suspension period, Seller shall have the period outlined by the CAISO in order to demonstrate compliance with the CAISO Tariff (the "CAISO Exemption Cure Period"). If Seller is unable to demonstrate compliance with the CAISO Exemption Cure Period or the three hundred and sixty-five day suspension period, whichever date is earlier, SCE shall have the right to designate an Early Termination Date by Notice, which will be effective five (5) Business Days after the Notice is given.
{SCE Comment: Language only applicable to projects that utilize a shared transformer.}

6.03 Termination Payment.

As soon as practicable after an Early Termination Date is declared, the Non-Defaulting Party shall provide Notice to the Defaulting Party of the Termination Payment.

The Notice must include a written statement setting forth, in reasonable detail, the calculation of such Termination Payment including the Forward Settlement Amount, together with appropriate supporting documentation.

The contents of this document are subject to restrictions on disclosure as set forth herein.

If the Termination Payment is positive, the Defaulting Party shall pay such amount to the Non-Defaulting Party within ten (10) Business Days after the Notice is provided. If the Termination Payment is negative (i.e., the Non-Defaulting Party owes the Defaulting Party more than the Defaulting Party owes the Non-Defaulting Party), then the Non-Defaulting Party shall pay such amount to the Defaulting Party within thirty (30) days after the Notice is provided.

The Parties shall negotiate in good faith to resolve any disputes regarding the calculation of the Termination Payment. Any Disputes which the Parties are unable to resolve through negotiation may be submitted for resolution through mediation and arbitration as provided in Article Twelve.

*** End of ARTICLE SIX ***

ARTICLE SEVEN. LIMITATIONS OF LIABILITIES

EXCEPT AS SET FORTH HEREIN, THERE ARE NO WARRANTIES BY EITHER PARTY UNDER THIS AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES WILL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY WILL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED, UNLESS THE PROVISION IN QUESTION PROVIDES THAT THE EXPRESS REMEDIES ARE IN ADDITION TO OTHER REMEDIES THAT MAY BE AVAILABLE.

SUBJECT TO SECTION 12.04, IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY WILL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES WILL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

DIRECT DAMAGES INCLUDE THE VALUE OF ANY [FEDERAL INVESTMENT TAX CREDIT][FEDERAL PRODUCTION TAX CREDIT], DETERMINED ON AN AFTER-TAX BASIS, THAT ARE LOST BY SELLER DUE TO AN EVENT OF DEFAULT BY SCE WHERE SELLER PROVIDED NOTICE OF EARLY TERMINATION TO SCE IN ACCORDANCE WITH SECTION 6.02(a) AND SELLER HAS NOT BEEN ABLE TO MITIGATE THAT LOSS AFTER USE OF REASONABLE EFFORTS.

{SCE Comment: For Generating Facilities that qualify for Federal Production Tax Credit or Federal Investment Tax Credit, as applicable.}

UNLESS EXPRESSLY PROVIDED IN THIS AGREEMENT, INCLUDING WITHOUT LIMITATION THE PROVISIONS OF SECTION 10.03 (INDEMNITY), NEITHER PARTY WILL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE.

IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE.

RAP ID# [Number], [Seller's Name]

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

NOTHING IN THIS ARTICLE PREVENTS, OR IS INTENDED TO PREVENT SCE FROM PROCEEDING AGAINST OR EXERCISING ITS RIGHTS WITH RESPECT TO ANY DEVELOPMENT SECURITY, OR PERFORMANCE ASSURANCE.

*** End of ARTICLE SEVEN ***

The contents of this document are subject to restrictions on disclosure as set forth herein.

ARTICLE EIGHT. CREDIT AND COLLATERAL REQUIREMENTS

~~8.011.01 Financial Information:~~

- ~~(a) If requested by one Party, the other Party shall deliver the following financial statements, which in all cases must be for the most recent accounting period and prepared in accordance with GAAP:~~
- ~~(i) Within one hundred twenty (120) days following the end of each fiscal year, a copy of its annual report containing audited consolidated financial statements (income statement, balance sheet, statement of cash flows and statement of retained earnings and all accompanying notes) for such fiscal year, setting forth in each case in comparative form the figures for the previous year; and~~
- ~~(ii)(i) Within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year, a copy of its quarterly report containing consolidated financial statements (income statement, balance sheet, statement of cash flows and statement of retained earnings and all accompanying notes) for such fiscal quarter and the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures for the previous year.~~
- ~~(b) In each case, the financial statements specified in Sections 8.01(a)(i) and 8.01(a)(ii) above must be:~~
- ~~(i) Certified in accordance with all Applicable Laws and regulations, including all applicable SEC rules and regulations, if such Party is an SEC reporting company; or~~
- ~~(ii)(i) Certified by a Responsible Officer as being fairly stated in all material respects (subject to normal year end audit adjustments) if such Party is not an SEC reporting company;~~
- ~~(c) For purposes of the requirement set forth in Section 8.01(a):~~
- ~~(i) If a Party's financial statements are publicly available electronically on the website of that Party or the SEC, then the Party shall be deemed to have met the requirements of Section 8.01(a); and~~
- ~~(ii)(i) Should any such financial statements not be available on a timely basis due to a delay in preparation or certification, that delay will not be an Event of Default so long as the producing Party diligently pursues the preparation, certification and delivery of the statements.~~

8.028.01 Development Security.(a) Amount.

Seller shall post and thereafter maintain an amount equal to *[Ninety dollars (\$90)] {SCE Comment: For Baseload} [Sixty dollars (\$60)] {SCE Comment: For Intermittent}* for each kilowatt of *[Installed DC Rating] {SCE Comment: For Solar Photovoltaic} [Contract Capacity] {SCE Comment: For all technologies except Solar Photovoltaic}* ("Development Security").

(b) Posting Requirements.

Seller shall post the Development Security in accordance with the following terms and conditions:

- (i) Seller shall post Development Security no later than five (5) Business Days after the Effective Date;
- (ii) The Development Security must be in the form of cash or a Letter of Credit; and
- (iii) The Development Security and any interest accrued thereon in accordance with Section 8.0403(a) shall be held by SCE as security for Seller achieving Commercial Operation on or before the Commercial Operation Deadline and demonstrating the *[Installed DC Rating] {SCE Comment: For Solar Photovoltaic} [Contract Capacity] {SCE Comment: For all technologies except Solar Photovoltaic}* in accordance with the terms of this Agreement.

(c) Return of Development Security.

If no Event of Default with respect to Seller has occurred and is continuing, and no Early Termination Date has occurred or been designated as the result of an Event of Default with respect to Seller, then:

- (i) As soon as reasonably practicable after the ~~occurrence of the~~ Commercial Operation Date, SCE shall return the full Development Security to Seller, including any interest accrued thereon pursuant to Section 8.0403(a), less the amount of Development Security retained pursuant to section 3.06(f). if any.
- (ii) As soon as reasonably practicable after the termination of this Agreement by either Party pursuant to Section 2.03(a)(ii) or 5.04, SCE shall return to Seller the full Development Security; provided, a termination under Section 5.04 only entitles Seller to a return of the Development Security if the termination is based on a Force Majeure that prevents the Commercial

Operation Date from occurring on or before the Commercial Operation Deadline.

Seller may, with SCE's consent, authorize SCE to retain cash or Letter(s) of Credit initially posted as Development Security as Performance Assurance posted under Section 8.0302.

8.038.02 Performance Assurance.

(a) Amount.

At all times during the Delivery Term, Seller shall post and thereafter maintain Performance Assurance in the amount of [Dollar Amount text] dollars (\$[Number]). {SCE Comment: Performance Assurance will be calculated as five percent (5%) of the total projected revenue over the full Term.}

(b) Posting Requirements.

Seller shall post the Performance Assurance in accordance with the following terms and conditions:

- (i) Seller shall post all of the Performance Assurance on or before the Commercial Operation Date and such Performance Assurance shall be maintained at all times during the Term and thereafter until such time as Seller has satisfied all monetary obligations which survive any termination of this Agreement, not to exceed one year following the end of the Term;
- (ii) The Performance Assurance must be in the form of cash or a Letter of Credit; and
- (iii) The Performance Assurance and any interest accrued thereon in accordance with Section 8.0403(a) shall be held by SCE as security for Seller's performance of its obligations under this Agreement.

(c) Return of Performance Assurance

SCE shall return to Seller the unused portion of the Performance Assurance, including any interest accrued thereon pursuant to Section 8.0403(a), as soon as reasonably practicable after the Delivery Term has ended and Seller has satisfied all monetary obligations which survive termination of this Agreement.

8.048.03 Administration of Project Security

(a) Cash.

- (i) SCE shall calculate and pay an Interest Payment to Seller ~~Cash Collateral~~ Simple Interest on any Project Security posted in cash, concurrently with

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the return of such collateral to Seller in accordance with the terms of this Agreement.

~~(ii)~~ ~~Notwithstanding~~ ~~On or after~~ the ~~provisions occurrence~~ of ~~Applicable Laws~~, ~~if no an~~ Event of Default ~~has occurred and is continuing~~ with respect to ~~SCE and no the Seller or an~~ Early Termination Date ~~has occurred or been designated~~ as a result of an Event of Default with respect to ~~the Seller~~, SCE ~~for which there exist~~ shall retain any ~~unsatisfied payment~~ Interest Payment as additional Project Security until the obligations, then of the Seller under this Agreement have been satisfied in the case of an Early Termination Date or for so long as such Event of Default is continuing in the case of an Event of Default; provided that, any Interest Payment that is held by SCE as an additional Project Security amount shall not accrue interest in accordance with Section 8.03(a)(i)

~~(ii)(iii)~~ Notwithstanding the provisions of Applicable Laws, SCE shall have the right to sell, pledge, rehypothecate, assign, invest, use, commingle or otherwise use in its business any cash that it holds as Project Security hereunder, free from any claim or right of any nature whatsoever of Seller, including any equity or right of redemption by Seller.

(b) Letters of Credit.

(i) Each Letter of Credit must be maintained for the benefit of SCE;

(ii) Seller shall:

(1) ~~Renew or cause the renewal of each outstanding Letter of Credit no less than sixty (60) days before its expiration, provided, if,~~

~~(1)(2)~~ If the issuer of an outstanding Letter of Credit has indicated its intent not to renew such Letter of Credit, provide alternative Project Security at least twenty (20) Business Days before its expiration; and

~~(2)(3)~~ If the issuer of a Letter of Credit fails to honor SCE's properly documented request to draw on an outstanding Letter of Credit, provide alternative Project Security within three (3) Business Days after such refusal.

(iii) Upon the occurrence of a Letter of Credit Default, Seller shall provide to SCE alternative Project Security on or before the third (3rd) Business Day after the occurrence thereof (or the fifth (5th) Business Day after the occurrence thereof if only clause (a) under the definition of Letter of Credit Default applies).

(iv) Upon, or at any time after, the occurrence and continuation of an Event of Default by Seller, SCE may draw on the entire undrawn portion of any

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outstanding Letter of Credit upon submission to the issuer of such Letter of Credit of one or more certificates specifying that such Event of Default has occurred and is continuing. In addition, SCE will have the right to draw on the Letter of Credit for any of the reasons set forth in such Letter of Credit (or its accompanying draw certificate).

- (v) Cash proceeds received by SCE from drawing upon the Letter of Credit shall be deemed Project Security for Seller's obligations to SCE, and SCE shall have the rights and remedies set forth in this Agreement with respect to such cash proceeds.
- (vi) In all cases, all costs associated with a Letter of Credit, including the costs and expenses of establishing, renewing, replenishing, substituting, canceling, and changing the amount of a Letter of Credit shall be borne by Seller.

(c) Liability Following Application of Collateral.

Notwithstanding SCE's use of cash collateral or receipt of cash proceeds of a drawing under the Letter of Credit, Seller shall remain liable for:

- (i) Any failure to provide or maintain the required Project Security if, following such application, the remaining Project Security is less than the amount required hereunder (including failure to replenish cash collateral or a Letter of Credit to the full Project Security amount in the event that SCE uses the cash collateral or draws against the Letter of Credit for any reason other than to satisfy a Termination Payment); or
- (ii) Any amounts owing to SCE and remaining unpaid after the application of the amounts drawn by SCE.

8.058.04 Grant of Security Interest.

To secure its performance of its obligations under this Agreement, and until released as provided herein, Seller hereby grants to SCE a present and continuing first-priority security interest ("Security Interest") in, and lien on (and right to setoff against), and assignment of the Project Security and any and all proceeds resulting therefrom or from the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of SCE, and Seller agrees to take such action as SCE reasonably requires in order to perfect SCE's Security Interest in, and lien on (and right to ~~net~~setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.

8.068.05 Remedies.

- (a) Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default or an Early Termination Date, SCE, if it is the Non-Defaulting Party, may do any one or more of the following:
 - (i) Exercise any of its rights and remedies with respect to the Project Security, including any such rights and remedies under law then in effect;
 - (ii) Exercise its rights of setoff against any and all property of Seller in the possession of SCE or its agent;
 - (iii) Draw on any outstanding Letter of Credit issued for its benefit; and
 - (iv) Liquidate any Project Security then held by or for the benefit of SCE free from any claim or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller.
- (b) SCE shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Seller's obligations under this Agreement, subject to SCE's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.
- (c) SCE shall be under no obligation to prioritize the order with respect to which it exercises any one or more rights and remedies available hereunder. Seller shall in all events remain liable to SCE for any amount payable by Seller in respect of any of its obligations remaining unpaid after any such liquidation, application and set off.

8.078.06 Credit and Collateral Covenants.

- (a) Seller shall, from time to time as requested by SCE, execute, acknowledge, record, register, deliver and file all such notices, statements, instruments and other documents as may be necessary or advisable to render fully valid and enforceable under all ~~applicable laws~~ Applicable Laws the rights, liens and priorities of SCE with respect to the Security Interest provided for herein and therein.
- (b) Seller may not cause or permit the stock, equity ownership interest in Seller or assets of Seller to be pledged or assigned as collateral or otherwise to any party other than Lender as set forth under the Collateral Assignment Agreement.
- (c) Seller may not hold any material assets, become liable for any material obligations or engage in any material business activities other than the development, construction and Operation of the Generating Facility *[and the ownership and/or management of Interconnection Affiliate with respect to the Shared Facilities as contemplated under Section 3.05]. {SCE Comment: Bracketed language only applicable to projects that utilize Shared Facilities.}*
- (d) Seller may not own, form or acquire, or otherwise conduct any of its activities through, any direct or indirect subsidiary *[other than, with respect to the Shared Facilities as contemplated under Section 3.05, Interconnection Affiliate]. {SCE*

The contents of this document are subject to restrictions on disclosure as set forth herein.

Comment: Bracketed language only applicable to projects that utilize Shared Facilities.}

- (e) During any period during which Seller is a Defaulting Party, Seller may not:
 - (i) Declare or pay any dividend, or make any other distribution or payment, on account of any equity interest in Seller; or
 - (ii) Otherwise make any distribution or payment to any Affiliate of Seller.

8.08.07 California Commercial Code Waiver.

This Agreement sets forth the entirety of the agreement of the Parties regarding credit, collateral, financial assurances and adequate assurances. Except as expressly set forth in this Agreement, including those provisions set forth in Article Six and Article Eight, neither Party:

- (a) Has or will have any obligation to post margin, provide letters of credit, pay deposits, make any other prepayments or provide any other financial assurances, in any form whatsoever; or
- (b) Will have reasonable grounds for insecurity with respect to the creditworthiness of a Party that is complying with the relevant provisions of Article Six and Eight;

and all implied rights relating to financial assurances arising from Section 2609 of the California Commercial Code or case law applying similar doctrines, are hereby waived.

8.08 Financial Information.

- (a) If requested by one Party, the other Party shall deliver the following financial statements, which in all cases must be for the most recent accounting period and prepared in accordance with GAAP:
 - (i) Within one hundred twenty (120) days following the end of each fiscal year, a copy of its annual report containing audited consolidated financial statements (income statement, balance sheet, statement of cash flows and statement of retained earnings and all accompanying notes) for such fiscal year, setting forth in each case in comparative form the figures for the previous year; and
 - (ii) Within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year, a copy of its quarterly report containing consolidated financial statements (income statement, balance sheet, statement of cash flows and statement of retained earnings and all accompanying notes) for such fiscal quarter and the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures for the previous year.
- (b) In each case, the financial statements specified in Sections 8.08(a)(i) and 8.08(a)(ii) above must be:

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (i) Certified in accordance with all Applicable Laws and regulations, including all applicable SEC rules and regulations, if such Party is an SEC reporting company; or
- (ii) Certified by a Responsible Officer as being fairly stated in all material respects (subject to normal year end audit adjustments) if such Party is not an SEC reporting company;
- (c) For purposes of the requirement set forth in Section 8.08(a):
 - (i) If a Party's financial statements are publicly available electronically on the website of that Party or the SEC, then the Party shall be deemed to have met the requirements of Section 8.08(a); and
 - (ii) Should any such financial statements not be available on a timely basis due to a delay in preparation or certification, that delay will not be an Event of Default so long as the producing Party diligently pursues the preparation, certification and delivery of the statements.

*** End of ARTICLE EIGHT ***

ARTICLE NINE. GOVERNMENTAL CHARGES

9.01 Cooperation to Minimize Tax Liabilities.

Each Party shall use reasonable efforts to implement the provisions of and to administer this Agreement in accordance with the intent of the Parties to minimize all taxes, so long as neither Party is materially adversely affected by such efforts.

9.02 Governmental Charges.

Seller shall pay or cause to be paid all taxes imposed by any Governmental Authority (“Governmental Charges”) on or with respect to the Metered Amounts (and any contract associated with the Metered Amounts) arising before the Delivery Point, including ad valorem taxes and other taxes attributable to the Generating Facility, land, land rights or interests in land for the Generating Facility.

SCE shall pay or cause to be paid all Governmental Charges on or with respect to the Metered Amounts at and from the Delivery Point. If Seller is required by law or regulation to remit or pay Governmental Charges which are SCE’s responsibility hereunder, SCE shall promptly reimburse Seller for such Governmental Charges.

If SCE is required by law or regulation to remit or pay Governmental Charges which are Seller’s responsibility hereunder, SCE may deduct such amounts from monthly Product Payments to Seller ~~made pursuant to Exhibit E.~~

If SCE elects not to deduct such amounts from Seller’s monthly Product Payments, Seller shall promptly reimburse SCE for such amounts upon SCE’s Payment Invoice request. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which that Party is exempt under the law.

~~9.03 Providing Information to Taxing Authorities.~~

~~Seller or SCE, as necessary, shall provide information concerning the Generating Facility to any requesting taxing authority.~~

*** End of ARTICLE NINE ***

ARTICLE TEN. MISCELLANEOUS**10.01 Representations and Warranties.**

On the Effective Date, each Party represents and warrants to the other Party that:

- (a) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- (b) Except for CPUC Approval in the case of SCE, and all Permits in the case of Seller, it has or will timely acquire all regulatory authorizations necessary for it to legally perform its obligations under this Agreement;
- (c) The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;
- (d) This Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms, subject to any Equitable Defenses;
- (e) There is not pending, or to its knowledge, threatened against it or, in the case of Seller, any of its Affiliates, any legal proceedings that could materially adversely affect its ability to perform under this Agreement;
- (f) No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement;
- (g) It is acting for its own account and its decision to enter into this Agreement is based upon its own judgment, not in reliance upon the advice or recommendations of the other Party and it is capable of assessing the merits of and understanding, and understands and accepts the terms, conditions and risks of this Agreement; and
- (h) It has not relied upon any promises, representations, statements or information of any kind whatsoever that are not contained in this Agreement in deciding to enter into this Agreement.

10.02 Additional Seller Representations, Warranties and Covenants.

- (a) Seller hereby covenants to SCE that throughout the Delivery Term:
 - (i) Seller shall own and Operate the Generating Facility;
 - (ii) Seller shall deliver to SCE the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person;

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (iii) Seller shall hold the rights to all Green Attributes, Capacity Attributes and Resource Adequacy Benefits, which Seller has conveyed and has committed to convey to SCE hereunder;
 - (iv) Seller shall obtain, maintain and remain in compliance with all Permits, interconnection agreements and transmission rights necessary to Operate the Generating Facility and to deliver electric energy from the Generating Facility to the Delivery Point;
 - (v) Subject to Section 1.0807, Seller shall take all actions necessary for the Project to qualify and be certified by the CEC as an ERR; and
 - (vi) Subject to Section 1.0807, Seller shall take all actions necessary for the Product delivered to SCE to qualify under the requirements of the California Renewables Portfolio Standard.
- (b) Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that:
- (i) The Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource ("ERR") as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and
 - (ii) The Project's output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard.
- To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.
- (c) Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the Renewable Energy Credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.
- (d) The term "commercially reasonable efforts" as used in Section 10.02(b) and Section 10.02(c) means efforts consistent with and subject to Section 1.0807. *[The term "change in law" as used in Section 10.02(b) and Section 10.02(c) does not include an invalidation, rescission or change in terms of the CAISO Exemption nor any disapproval, disallowance, or other change in policy by WREGIS, the CEC or the CPUC with regards to the RECs as a result of the Shared Facilities' metering*

The contents of this document are subject to restrictions on disclosure as set forth herein.

scheme. {SCE Comment: Bracketed language only applies to projects that utilize Shared Facilities.}

- (e) Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under the contract.
- (f) Seller hereby represents and warrants that, as of the Effective Date, it has no knowledge of any plans by SCE or another Transmission Provider to seek to construct a transmission or distribution line through or on the Site.
- (g) Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term: (i) the Seller shall comply with the Green-e® Energy eligibility criteria and requirements, as updated from time to time by Green-e® Energy; and (ii) the Generating Facility and any Metered Amounts shall qualify as Green-e® Energy eligible and are Green-e® Energy certified.
{SCE Comment: Only applicable to GTSR Green Rate Projects only.}

10.03 Indemnity.

(a) SCE's Indemnification Obligations.

In addition to any other indemnification obligations SCE may have elsewhere in this Agreement, which are hereby incorporated in this Section 10.03(a), SCE releases, and shall indemnify, defend and hold harmless Seller, and Seller's directors, officers, employees, agents, assigns, and successors in interest, from and against any and all loss, liability, damage, claim, cost, charge, demand, fine, penalty or expense of any kind or nature (including any direct, damage, claim, cost, charge, demand, or expense, and attorneys' fees (including cost of in-house counsel) and other costs of litigation, arbitration and mediation, and in the case of third-party claims only, indirect and consequential loss or damage of such third-party), arising out of or in connection with:

- (i) any breach made by SCE of its representations and warranties in Sections 10.01 and 10.02; ~~and~~
- ~~(ii)~~ The failure to pay any Governmental Charges for whichc SCE is responsible under Article Nine; and
- ~~(ii)(iii)~~ so long as Seller has fully complied with the Generator Operator Obligations and Generator Owner Obligations, any NERC Standards Non-Compliance Penalties which are solely due to SCE's negligence in performing its role as Seller's Scheduling Coordinator throughout the Delivery Term.

This indemnity applies notwithstanding Seller's active or passive negligence. However, Seller will not be indemnified hereunder for its loss, liability, damage,

claim, cost, charge, demand or expense to the extent caused by its gross negligence or willful misconduct.

(b) Seller's Indemnification Obligations.

In addition to any other indemnification obligations Seller may have elsewhere in this Agreement, which are hereby incorporated in this Section 10.03(b), Seller releases, and shall indemnify, defend and hold harmless SCE, and SCE's directors, officers, employees, agents, assigns, and successors in interest, from and against any and all loss, liability, damage, claim, cost, charge, demand, penalty, fine or expense of any kind or nature (including any direct, damage, claim, cost, charge, demand, or expense, and attorneys' fees (including cost of in-house counsel) and other costs of litigation, arbitration or mediation, and in the case of third-party claims only, including claims arising from a breach of Section 10.02(b), indirect or consequential loss or damage of such third-party), arising out of or in connection with:

- (i) any breach made by Seller of its representations and warranties in Sections 10.01 and 10.02;
- (ii) Seller's failure to fulfill its obligations regarding Resource Adequacy Benefits as set forth in Section[s] 3.01 [and 3.02];
- (iii) NERC Standards Non-Compliance Penalties or an attempt by any Governmental Authority, person or entity to assess such NERC Standards Non-Compliance Penalties against SCE, except to the extent solely due to SCE's negligence in performing its role as Seller's Scheduling Coordinator throughout the Delivery Term;
- (iv) injury or death to persons, including SCE employees, and physical damage to property, including SCE property, where the damage arises out of, is related to, or is in connection with, Seller's construction, ownership or Operation of the Generating Facility, or obligations or performance under this Agreement;
- (v) injury or death to any person or damage to any property, including the personnel or property of SCE, to the extent that SCE would have been protected had Seller complied with all of the provisions of Section 10.11; *provided*, the inclusion of this Section 10.03(b)(v) is not intended to create any express or implied right in Seller to elect not to provide the insurance required under Section 10.11;
- (vi) any breach by Seller of the covenants set forth in Section 2.04(b);
- (vii) the disqualification by WREGIS or any Governmental Authority of any Renewable Energy Credits transferred to SCE, or the failure to transfer any Renewable Energy Credits to Buyer within four (4) months after the generation of the associated Metered Amounts-;

- (viii) any violation of Applicable Laws or the CAISO Tariff arising out of or in connection with Seller's performance of, or failure to perform this Agreement, including strict liability;
- (ix) any (i) release of a Hazardous Material by Seller, its EPC Contractor, or any of Seller's or its EPC Contractor's subcontractors, (ii) enforcement or compliance proceeding relating to or in connection with any alleged, threatened or actual violation of any environmental law by Seller or its EPC Contractor or any of Seller's or its EPC Contractor's subcontractors, or (iii) action reasonably necessary to abate, investigate, remediate or prevent a violation or threatened violation of any environmental law by Seller or its EPC Contractor or any of Seller's or its EPC Contractor's subcontractors;
- (x) the failure to pay any Governmental Charges for which Seller is responsible under Article Nine;
- (vii)(xi) any monetary penalties or fines assessed against SCE by the CPUC or the CAISO or any other entity having jurisdiction, resulting from Seller's willful or negligent failure to provide SCE with the full amount of Resource Adequacy Benefits associated with the Contract Capacity for the Generating Facility (in accordance with then current resource adequacy counting rules). The Parties shall use commercially reasonable efforts to minimize such fines and penalties; provided, in no event will SCE be required to use or change its utilization of its owned or controlled assets or market positions to minimize the fines and penalties. [/or
- (viii)(xii) any penalties, sanctions or fines imposed by CAISO as a result of the inaccuracy or recalibration of the CAISO Approved Meter(s).]
{SCE Comment: Bracketed language only applicable to projects that utilize a shared transformer.}

This indemnity applies notwithstanding SCE's active or passive negligence. However, SCE will not be indemnified under Section 10.03(b)(i) through Section 10.03(b)(iv) for its loss, liability, damage, claim, cost, charge, demand or expense to the extent caused by its gross negligence or willful misconduct.

~~(e) — Mutual Indemnification:~~

~~Each Party shall indemnify, defend and hold harmless the other Party and the other Party's directors, officers, employees, agents, assigns, and successors in interest, from and against any and all loss, liability, damage, claim, cost, charge, demand, fine, penalty or expense of any kind or nature (including direct, indirect, or consequential loss, damage, claim, cost, charge, demand, or expense, including attorneys' fees (including costs of in-house counsel) and other costs of litigation, arbitration or mediation), arising out of or in connection with a Party's failure to pay any Governmental Charges for which such Party is responsible under Article Nine.~~

The contents of this document are subject to restrictions on disclosure as set forth herein.

~~(d)~~(c) Indemnification Claims.

All claims for indemnification by a Party entitled to be indemnified under this Agreement (an "Indemnified Party") by the other Party (the "Indemnitor") will be asserted and resolved as follows:

- (i) If a claim or demand for which an Indemnified Party may claim indemnity is asserted against or sought to be collected from an Indemnified Party by a third party, the Indemnified Party shall as promptly as practicable give Notice to the Indemnitor; *provided*, failure to provide this Notice will relieve Indemnitor only to the extent that the failure actually prejudices Indemnitor.
- (ii) Indemnitor will have the right to control the defense and settlement of any claims in a manner not adverse to Indemnified Party but cannot admit any liability or enter into any settlement without Indemnified Party's approval.
- (iii) Indemnified Party may employ counsel at its own expense with respect to any claims or demands asserted or sought to be collected against it; *provided*, if counsel is employed due to a conflict of interest or because Indemnitor does not assume control of the defense, Indemnitor will bear the expense of this counsel.

~~(e)~~(d) Survival of Indemnification Rights and Obligations.

All indemnity rights and obligations survive the termination of this Agreement for ~~twelve (12) months~~ a period of four (4) years.

10.04 Assignment.

- (a) Except as provided in Section 10.05, neither Party can assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld.
- (b) ~~Any~~Any tax equity financing or direct or indirect change of control of Seller (whether voluntary or by operation of law) will be deemed an assignment and will require the prior written consent of SCE, which consent shall not be unreasonably withheld.
- (c) Any requests for consent to assignment shall be provided at least thirty (30) days in advance of the assignment date.

10.05 Consent to Collateral Assignment.

~~Subject to the provisions of this Section 10.05, Seller has the right to assign this Agreement as collateral for any financing or refinancing of the Generating Facility; provided, Seller shall~~In connection with any debt financing or refinancing of the Generating Facility by Seller that contemplates an assignment of this Agreement as collateral, SCE shall in good faith work with Seller and Lender to agree upon a consent to a collateral assignment of this Agreement ("Collateral Assignment Agreement")

substantially in the form of Exhibit M. Requests for a Collateral Assignment Agreement must be received by SCE at least thirty (30) days in advance of the anticipated closing date for the transaction in question. Seller shall also be responsible for SCE's reasonable costs associated with the preparation, review, execution and delivery of documents in connection with any such assignment, including ~~without limitation~~ attorneys' fees.

~~In connection with any debt financing or refinancing of the Generating Facility by Seller that contemplates an assignment of this Agreement as collateral (a "Collateral Assignment"), SCE shall in good faith work with Seller and Lender to agree upon a consent to collateral assignment of this Agreement ("Collateral Assignment Agreement"). Any request for a Collateral Assignment Agreement shall be provided to SCE at least thirty (30) days in advance of the anticipated closing date for the Collateral Assignment.~~

~~The Collateral Assignment Agreement must be in form and substance agreed to by SCE, Seller and Lender, and, unless otherwise agreed, must include, among others, the following provisions:~~

- ~~(a) SCE shall give Notice of an Event of Default by Seller, to the person(s) to be specified by Lender in the Collateral Assignment Agreement, before exercising its right to terminate this Agreement as a result of such Event of Default;~~
- ~~(b) Following an Event of Default by Seller under this Agreement, SCE may require Seller or Lender to provide to SCE a report concerning:~~
 - ~~(i) The status of efforts by Seller or Lender to develop a plan to cure the Event of Default;~~
 - ~~(ii) Impediments to the cure plan or its development;~~
 - ~~(iii) If a cure plan has been adopted, the status of the cure plan's implementation (including any modifications to the plan as well as the expected timeframe within which any cure is expected to be implemented); and~~
 - ~~(iv) Any other information which SCE may reasonably require related to the development, implementation and timetable of the cure plan.~~

~~Seller or Lender must provide the report to SCE within ten (10) Business Days after Notice from SCE requesting the report. SCE will have no further right to require the report with respect to a particular Event of Default after that Event of Default has been cured;~~

- ~~(c) Lender will have the right to cure an Event of Default on behalf of Seller, only if Lender sends a written notice to SCE before the end of any cure period indicating Lender's intention to cure. Lender must remedy or cure the Event of Default within the cure period under this Agreement; *provided*, such cure period may, in SCE's sole discretion, be extended by no more than an additional one hundred eighty (180) days;~~

- ~~(d) — Lender will receive prior Notice of and the right to approve material amendments to this Agreement, which approval will not be unreasonably withheld, delayed or conditioned;~~
- ~~(e) — If Lender, directly or indirectly, takes possession of, or title to the Generating Facility (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure), Lender must assume all of Seller's obligations arising under this Agreement and all related agreements (subject to such limits on liability as are mutually agreed to by Seller, SCE and Lender as set forth in the Collateral Assignment Agreement); provided, before such assumption, if SCE advises Lender that SCE will require that Lender cure (or cause to be cured) any Event of Default existing as of the possession date in order to avoid the exercise by SCE (in its sole discretion) of SCE's right to terminate this Agreement with respect to such Event of Default, then Lender at its option, and in its sole discretion, may elect to either:

 - ~~(i) — Cause such Event of Default to be cured, or~~
 - ~~(ii) — Not assume this Agreement;~~
 - ~~(0)(1) — If Lender elects to sell or transfer the Generating Facility (after Lender directly or indirectly, takes possession of, or title to the Generating Facility), or sale of the Generating Facility occurs through the actions of Lender (for example, a foreclosure sale where a third party is the buyer, or otherwise), then Lender must cause the transferee or buyer to assume all of Seller's obligations arising under this Agreement and all related agreements as a condition of the sale or transfer.~~

~~Such sale or transfer may be made only to an entity with a tangible net worth of at least [Dollar amount text] dollars (\$[Number]) {SCE Comment: SCE to provide amount based on size of the Project} and at least three (3) years of experience operating a generating plant of similar technology and similar size; and~~~~
- ~~(g) — If this Agreement is rejected in Seller's Bankruptcy or otherwise terminated in connection therewith and if Lender or its designee, directly or indirectly, takes possession of, or title to, the Generating Facility (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure), Lender must itself or must cause its designee to promptly enter into a new agreement with SCE having substantially the same terms as this Agreement.~~

10.06 Abandonment.

Seller may not relinquish its possession and control of the Generating Facility without the prior written consent of SCE except under circumstances provided for in Sections 10.04 and 10.05.

For purposes of this Section 10.06, Seller will have been deemed to relinquish possession of the Generating Facility if Seller has ceased all activities related to Operation of the Generating Facility for a consecutive thirty (30) day period and such cessation is not a result of Force Majeure.

10.07 Governing Law.

THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. TO THE EXTENT ENFORCEABLE AT SUCH TIME, EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

10.08 Notices.

All notices, requests, invoices, statements or payments must be made as specified in Exhibit C.

Notices (other than Forecasts, scheduling requests and curtailment (or equivalent) instructions) must, unless otherwise specified herein, be in writing and may be delivered by hand delivery, first class United States mail, overnight courier service, e-mail or facsimile. Notices of curtailment (or equivalent orders) may be oral or written and must be made in accordance with accepted industry practices for such notices.

Notice provided in accordance with this Section 10.08 will be deemed given as follows:

- (a) Notice by e-mail, facsimile or hand delivery will be deemed given at the close of business on the day actually received, if received during business hours on a Business Day, and otherwise will be deemed given at the close of business on the next Business Day;
- (b) Notice by overnight United States mail or courier service will be deemed given on the next Business Day after such Notice was sent out;
- (c) Notice by first class United States mail will be deemed given two (2) Business Days after the postmarked date;
- (d) Notice of curtailment will be deemed given on the date and time made by SCE and will be effective immediately.

Notices will be effective on the date deemed given, unless a different date for the Notice to go into effect is stated in another section of this Agreement.

A Party may change its designated representatives, addresses and other contact information by providing Notice of same in accordance herewith.

All Notices, requests, invoices, statements or payments related to this Agreement or the Generating Facility must reference the RAP ID and clearly identify the fact, circumstance, request, issue, dispute or matter to which such Notice relates.

10.09 General.

- (a) This Agreement constitutes the entire agreement between the Parties relating to its subject matter.
- (b) This Agreement will be considered for all purposes as prepared through the joint efforts of the Parties and may not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.
- (c) ~~Except to the extent provided for herein, no amendment or modification to this Agreement will~~ This Agreement can only be enforceable unless reduced to amended by a writing signed ~~singed~~ by ~~all~~ both Parties.
- (d) This Agreement ~~does~~ shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement and except as otherwise provided in Section 10.03 with respect to the rights of indemnitees).
- (e) The failure of either Party to insist in any one instance upon strict performance of any the provisions of this Agreement or to take advantage of any of its rights hereunder shall not be construed as a waiver of any such provisions or the relinquishments of such rights for the future but the same shall continue and remain in full force and effect. Waiver by a Party of any default by the other Party may not be construed as a waiver of any other default.
- (f) The term “including” when used in this Agreement is by way of example only and may not be considered in any way to be in limitation.
- (g) The word “or” when used in this Agreement includes the meaning “and/or” unless the context unambiguously dictates otherwise.
- (h) The headings used in this Agreement are for convenience and reference purposes only. Words having well-known technical or industry meanings have these meanings unless otherwise specifically defined in this Agreement.
- (i) Where days are not specifically designated as Business Days, they will be considered as calendar days.
- (j) This Agreement is binding on each Party’s successors and permitted assigns.
- (k) No provision of this Agreement is intended to contradict or supersede any agreement, the CAISO Tariff, SCE’s tariff or Applicable Laws covering transmission, distribution, metering, scheduling or interconnection, including the interconnection agreement ~~or the CAISO Tariff.~~ In the event of an apparent contradiction between this Agreement and any such agreement, the CAISO tariff, SCE’s tariff or Applicable Laws, such agreement, the CAISO Tariff, SCE’s tariff

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or Applicable Law controls. Each Party agrees that it will not assert or defend itself, on the basis that any applicable tariff is inconsistent with this Agreement.

- (l) Whenever this Agreement specifically refers to any law, tariff, government department or agency, regional reliability council, Transmission Provider, or credit ~~rating agency~~ Rating Agency, the Parties hereby agree that the reference also refers to any successor to such law, tariff or organization.
- (m) SCE has assigned a RAP ID number to this Agreement for tracking purposes only.
- (n) The Parties acknowledge and agree that this Agreement and the transactions contemplated by this Agreement constitute a “forward contract” within the meaning of the Bankruptcy Code and that SCE and Seller are each “forward contract merchants” within the meaning of the Bankruptcy Code.
- (o) This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile transmission, Portable Document Format (i.e., PDF) or by other electronic means constitutes effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes.
- (p) Each Party shall act in good faith in its performance under this Agreement.
- (q) All dollar amounts set forth in this Agreement are in U.S. dollars.
- (r) All references to time shall be in PPT unless stated otherwise.

10.10 Confidentiality.

(a) Terms and Conditions of this Agreement.

Neither Party shall disclose Confidential Information to a third party, other than:

- (i) To such Party's, or its upstream parents' (which, in the case of SCE, is Edison International), employees, Lenders, counsel, accountants, advisors or investors, in each case who have a need to know such information and have agreed to keep such terms confidential;
- (ii) To potential Lenders with the consent of SCE, which consent will not be unreasonably withheld;
- (iii) By either Party (the “Disclosing Party”), to participants of SCE's Procurement Review Group, as defined in CPUC Decision 02-08-071, subject to any confidentiality agreements or laws, regulations or regulatory decisions concerning confidentiality which are applicable to SCE's Procurement Review Group; *provided*, Seller may only disclose to such entities Confidential Information that is information on the bid and

negotiation process of SCE's RPS solicitation; *provided further*, with respect to non-CPUC PRG participants, neither Party may disclose Confidential Information to such third parties unless and until a written confidentiality or non-disclosure agreement is fully executed between the Disclosing Party and such third-party discloser. Seller shall provide Notice to SCE of any disclosure by Seller of Confidential Information pursuant to this Section 10.10(a)(iii) of this Agreement.

- (iv) By either Party, to the CPUC under seal for purposes of review subject to such Disclosing Party making reasonable efforts to obtain confidentiality protection from the CPUC under Section 583 of the California Public Utilities Code or other statute, order or rule offering comparable confidentiality protection; *provided*, except as set forth in Sections 10.10(a)(vii), 10.10(a)(viii) and 10.10(b), as applicable, Seller may only disclose to the CPUC Confidential Information that is information on the bid and negotiation process of SCE's RPS solicitation. Seller shall provide Notice to SCE of any disclosure by Seller of Confidential Information pursuant to this Section 10.10(a)(iv) of this Agreement.
- (v) To the CAISO or as otherwise may reasonably be required in order to participate in any auction, market or other process pertaining to the allocation of priorities or rights related to the transmission of electric energy sold or to be sold to SCE hereunder;
- (vi) In order to comply with any Applicable Law or any exchange, control area or CAISO rule, or order issued by a court or entity with competent jurisdiction over the Disclosing Party, other than to those entities set forth in Section 10.10(a)(vii);
- (vii) In order to comply with any applicable regulation, rule, or order of the CPUC, CEC, *[Green-e® Energy,]* {SCE Comment: *Only applicable to GTSR Green Rate Projects only.*} FERC, any court, administrative agency, legislative body or other tribunal, or any mandatory discovery or data request of a party to any proceeding pending before any of the foregoing;
- (viii) To any governmental body, the CPUC, the CAISO or any local control area or regional authority having jurisdiction in order to support SCE's Resource Adequacy Requirement showings, if applicable; *provided*, SCE shall, to the extent reasonable, use reasonable efforts to limit the ability of any such applicable governmental body, CAISO, local control area or regional authority to further disclose such information;
- (ix) As may reasonably be required to participate in the WREGIS or other process recognized under Applicable Laws for the registration, transfer or ownership of Green Attributes associated with the Generating Facility;

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (x) To representatives of a Party's credit ~~ratings agencies~~ Ratings Agencies:
- (1) Who have a need to review the terms and conditions of this Agreement for the purpose of assisting the Party in evaluating this Agreement for credit rating purposes and have agreed to keep this information confidential; or
 - (2) With respect to the potential impact of this Agreement on the Party's financial reporting obligations;
- (xi) Disclosure of terms specified in and pursuant to Section 10.10(c);
- (xii) In connection with discovery requests or orders pertaining to the non-public terms of this Agreement as referenced in Sections 10.10(a)(vi) and 10.10(a)(vii) ("Disclosure Order") each Party shall, to the extent practicable, use reasonable efforts to:
- (1) Notify the other Party before disclosing the Confidential Information; and
 - (2) Prevent or limit such disclosure.
- After using such reasonable efforts, the Disclosing Party will not be:
- (3) Prohibited from complying with a Disclosure Order; or
 - (4) Liable to the other Party for monetary or other damages incurred in connection with the disclosure of the Confidential Information.
- Except as provided in the preceding sentence, the Parties are entitled to all remedies available at law or in equity to enforce, or seek relief in connection with this confidentiality obligation.

(b) Non-Disclosure Agreement.

- (i) The Parties acknowledge and agree that information provided by the Parties pursuant to this Agreement will be subject to the Non-Disclosure Agreement, or to any other agreement that the Parties negotiate to provide reasonable protection for their confidential business information or trade secrets.
- (ii) Confidential Information may only be used for the purposes set forth under the Non-Disclosure Agreement and for the purpose of implementing and enforcing this Agreement.

(c) RPS Confidentiality.

Notwithstanding Section 10.10(a), at any time on or after the Effective Date, either Party shall be permitted to disclose the following terms with respect to this Agreement:

- (i) Party names;

- (ii) ERR type;
- (iii) Term;
- (iv) Generating Facility location;
- (v) Contract Capacity;
- (vi) Forecasted Commercial Operation Date;
- (vii) Delivery Point; and
- (viii) Generating Facility's expected energy deliveries.

10.11 Insurance.

- (a) Starting on the Effective Date and throughout the Delivery Term of this Agreement and for such additional periods as may be specified below, Seller, and to the extent not covered by the Seller's insurance policies, its contractors and subcontractors, shall, at their own expense, provide and maintain in effect the insurance policies and minimum limits of coverage specified below, and such additional coverage as may be required by applicable law, with insurance companies which are authorized to do business in the state in which the services are to be performed and which have an A.M. Best's Insurance Rating of not less than A-VII. The minimum insurance requirements specified herein do not in any way limit or relieve Seller of any obligation assumed elsewhere in this Agreement, including, but not limited to, Seller's defense and indemnity obligations.
 - (i) Workers' Compensation Insurance with the statutory limits required by the state having jurisdiction over Seller's employees;
 - (ii) Employer's Liability Insurance with limits of not less than:
 - (1) Bodily injury by accident – One Million dollars (\$1,000,000) each accident
 - (2) Bodily injury by disease – One Million dollars (\$1,000,000) policy limit
 - (3) Bodily injury by disease – One Million dollars (\$1,000,000) each employee
 - (iii) Commercial General Liability Insurance, (which, except with the prior written consent of SCE and subject to subsections 10.11(a)(iii)(1) and 10.11(a)(iii)(2) below, shall be written on an "occurrence," not a "claims-made" basis), covering all operations by or on behalf of Seller arising out of or connected with this Agreement, including coverage for bodily injury, property damage, personal and advertising injury, products/completed operations, and contractual liability. Such insurance shall bear a per occurrence limit of not less than One Million dollars (\$1,000,000), and annual aggregate of not less than Two Million dollars (\$2,000,000),

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exclusive of defense costs, for all coverages. Such insurance shall contain standard cross-liability and severability of interest provisions.

If Seller elects, with SCE's written concurrence, to use a "claims made" form of Commercial General Liability Insurance, then the following additional requirements apply:

- (1) The retroactive date of the policy must be prior to the Effective Date; and
 - (2) Either the coverage must be maintained for a period of not less than four (4) years after the Agreement terminates, or the policy must provide for an extended reporting period of not less than four (4) years after the Agreement terminates.
- (iv) Commercial Automobile Liability Insurance covering bodily injury and property damage with a combined single limit of not less than One Million dollars (\$1,000,000) per occurrence. Such insurance shall cover liability arising out of Seller's use of all owned (if any), non-owned and hired vehicles, including trailers or semi-trailers in the performance of the Agreement.
- (v) Pollution Liability Insurance, (which, except with the prior written consent of SCE and subject to subsections 10.11(a)(v)(1) and 10.11(a)(v)(2) below, shall be written on an "occurrence," not a "claims-made" basis) with limits of not less than [] Million dollars (\$[],000,000) {*SCE Comment: Amount will be capped at \$5 million*} per occurrence or each claim and in the annual aggregate, covering losses involving hazardous material(s) and caused by pollution incidents or conditions that arise from the operations of the Seller, including but not limited to, coverage for bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death, property damage including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically damaged or destroyed, and defense costs.

If Seller elects, with SCE's written concurrence, to use a "claims made" form of Commercial General Liability Insurance, then the following additional requirements apply:

- (1) The retroactive date of the policy must be prior to the Effective Date; and
 - (2) Either the coverage must be maintained for a period of not less than three (3) years after the Agreement terminates, or the policy must provide for an extended reporting period of not less than three (3) years after the Agreement terminates.
- (vi) Umbrella/Excess Liability Insurance, written on an "occurrence," not a "claims-made" basis, providing coverage excess of the underlying

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Employer's Liability, Commercial General Liability, Commercial Automobile Liability and Pollution Liability insurance, on terms at least as broad as the underlying coverage, with limits of not less than [] Million dollars (\$[],000,000) *{SCE Comment: Amount will be equal to \$1 million per MW of Contract Capacity, capped at \$20 million}* per occurrence and in the annual aggregate. The insurance requirements of this Section 10.11 can be provided by any combination of Seller's primary and excess liability policies.

If Seller elects, with SCE's written concurrence, to use a "claims made" form of Umbrella/Excess Liability Insurance, then the following additional requirements apply:

- (1) The retroactive date of the policy must be prior to the Effective Date; and
 - (2) Either the coverage must be maintained for a period of not less than three (3) years after the Agreement terminates, or the policy must provide for an extended reporting period of not less than three (3) years after the Agreement terminates.
- (b) The insurance required above shall apply as primary insurance to, without a right of contribution from, any other insurance maintained by or afforded to SCE, its subsidiaries and affiliates, and their respective officers, directors, shareholders, agents, and employees, regardless of any conflicting provision in Seller's policies to the contrary. To the extent permitted by law, Seller and its insurers shall be required to waive all rights of recovery from or subrogation against SCE, its subsidiaries and affiliates, and their respective officers, directors, shareholders, agents, employees and insurers. The Commercial General Liability, the Commercial Automobile Liability Policy, the Pollution Liability and the Umbrella/Excess Liability insurance required above shall include, either by policy terms and conditions or by endorsement, SCE, its parent, subsidiaries and affiliates, and their respective officers, directors, shareholders, agents and employees, assigns, and successors in interest, as additional insureds for liability arising out of Seller's construction, ownership or Operation of the Generating Facility, or obligations or performance, under this Agreement.
- (c) All policies required by Sections 10.11(a)(i) through 10.11(a)(vi) shall be written on a "per project" or "per contract" basis.
- (d) Within ten (10) Business Days after the Effective Date, and within ten (10) Business Days after coverage is renewed or replaced, Seller shall furnish to SCE the entire policy forms, including endorsements, and certificates of insurance evidencing the coverage required above, written on forms and with deductibles reasonably acceptable to SCE. All deductibles and co-insurance retentions applicable to the insurance above shall be paid by Seller. Seller, or its insurance broker or agent, shall provide SCE with at least thirty (30) days' prior written

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notice in the event of cancellation of coverage. SCE's receipt of certificates that do not comply with the requirements stated herein, or Seller's failure to provide certificates, shall not limit or relieve Seller of the duties and responsibility of maintaining insurance in compliance with the requirements in this Section 10.11 and shall not constitute a waiver of any of the requirements in this Section 10.11.

- (e) Seller agrees to report to SCE in writing within ten (10) Business Days following all accidents or occurrences resulting in bodily injury to any person, and to any property where such property damage is greater than \$100,000.
- (f) If Seller fails to comply with any of the provisions of this Section 10.11, Seller, among other things and without restricting SCE's remedies under the law or otherwise, shall, at its own cost and expense, act as an insurer and provide insurance in accordance with the terms and conditions above. With respect to the required Commercial General Liability, Umbrella/Excess Liability, Pollution Liability and Commercial Automobile Liability insurance, Seller shall provide a current, full and complete defense to SCE, its subsidiaries and affiliates, and their respective officers, directors, shareholders, agents, employees, assigns, and successors in interest, in response to a third-party claim in the same manner that an insurer would have, had the insurance been maintained in accordance with the terms and conditions set forth above. In addition, alleged violations of the provisions of this Section 10.11 means that Seller has the initial burden of proof regarding any legal justification for refusing or withholding coverage and Seller shall face the same liability and damages as an insurer for wrongfully refusing or withholding coverage in accordance with the laws of California.

10.12 Nondedication.

Notwithstanding any other provisions of this Agreement, neither Party dedicates any of the rights that are or may be derived from this Agreement or any part of its facilities involved in the performance of this Agreement to the public or to the service provided under this Agreement, and this service shall cease upon termination of this Agreement.

10.13 Mobile Sierra.

Absent the agreement of all Parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Agreement, whether proposed by a Party (to the extent that any waiver in the next paragraph below is unenforceable or ineffective as to such Party), a non-party or FERC acting sua sponte, shall be the 'public interest' standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), and clarified by *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish* 554 U.S. 527 (2008); [NRG Power Marketing LLC v. Maine Public Utility Commission](#), 558 U.S. 527 (2010).

Notwithstanding any provision of Agreement, and absent the prior written agreement of the Parties, each Party, to the fullest extent permitted by Applicable Laws, for itself and its respective successors and assigns, hereby also expressly and irrevocably waives any rights it can or may have, now or in the future, whether under Sections 205, 206, or 306 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation, supporting a third party seeking to obtain or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any Section of this Agreement specifying any rate or other material economic terms and conditions agreed to by the Parties.

10.14 Late Payment Simple Interest.

Except as specifically provided in this Agreement, any outstanding and past due amounts owing and unpaid by either Party under the terms of this Agreement will be eligible to receive ~~a Late Payment Simple~~ Interest ~~calculated using the Interest Rate for~~ Payment for the number of days between the date due and the date paid.

10.15 Payments.

Payments to be made under this Agreement must be made by wire transfer or Automated Clearing House.

10.16 Seller Ownership and Control of Generating Facility.

Seller agrees, that, in accordance with FERC Order No. 697, upon request of SCE, Seller shall submit a letter of concurrence in support of any affirmative statement by SCE that the contractual arrangement set forth in this Agreement does not transfer “ownership or control of generation capacity” from Seller to SCE as the term “ownership or control of generation capacity” is used in 18 CFR Section 35.42. Seller also agrees that it will not, in filings, if any, made subject to FERC Order Nos. 652 and 697, claim that the contractual arrangement set forth in this Agreement conveys ownership or control of generation capacity from Seller to SCE.

10.17 Required Material.

Seller acknowledges and agrees that, notwithstanding anything to the contrary set forth herein, any review, approval, request, or requirement of any Required Material shall mean only that such Required Material is acceptable to SCE solely for SCE’s internal purposes and benefit, and will not in any way be construed to mean that such Required Material is accurate, suitable for its intended purpose, in compliance with any Applicable Law or other requirement, or endorsed for the benefit of any other party, including Seller. Further, Seller acknowledges and agrees that SCE shall have no liability to Seller or any other third party with respect to any Required Material so reviewed, approved, requested or required by SCE or on SCE’s behalf.

10.18 Shared Facilities and Portfolio Financing Acknowledgements, Etc.

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (a) SCE acknowledges and agrees that, subject to the terms and conditions set forth in this Agreement, (i) Seller has represented to SCE that the Shared Facilities are, or will or may be, subject to sharing and common ownership, use and financing arrangements between Seller and the Other Seller(s), and (ii) all such arrangements, including any and all related rights, liabilities, obligations and financings (including any pledge or collateral assignments in connection with such arrangements) shall be permitted by, and are not in conflict with, and do not give rise to any default under, this Agreement.
- (b) SCE acknowledges and agrees that, subject to the terms and conditions set forth in this Agreement, (i) Seller has represented to SCE that Seller may elect to finance all or any portion of the Generating Facility, along with the Other Seller(s) (or the Other Generating Facility(ies) or the Shared Facilities, on a Portfolio or other aggregated basis, which may include cross-collateralization or similar arrangements requested by Lenders to enable such financing, and (ii) all such arrangements are not in conflict with, and do not give rise to any default under, this Agreement.
- (c) The Parties shall cooperate with one another as may be reasonably requested by the other Party to provide such further approvals or acknowledgements in connection with Sections 10.19(a) and (b).

{SCE Comment: Language applicable to projects that utilize Shared Facilities.}

10.19 Consolidation of Seller's Financial Statements.

- (a) SCE shall determine, through consultation with its internal accountants and review with their independent registered public accounting firm, whether SCE is required to consolidate Seller's financial statements with SCE's financial statements for financial accounting purposes under Accounting Standards Codification (ASC) 810/Accounting Standards Update 2009-17, "Consolidation of Variable Interest Entities" (ASC 810), or future guidance issued by accounting profession governance bodies or the SEC that affects SCE accounting treatment for this Agreement (the "Financial Consolidation Requirement").
- (b) If the Financial Consolidation Requirement is applicable, then:
 - (i) Within twenty (20) days following the end of each calendar year (for each year that such treatment is required), Seller shall deliver to SCE unaudited financial statements and related footnotes, if applicable, of Seller as of the end of the year. The annual financial statements should include quarter-to-date and yearly information. SCE shall provide to Seller a checklist before the end of each year listing the items which SCE believes are material to SCE and required for this purpose, and Seller shall provide the information on the checklist, subject to the availability of data from Seller's records. It is permissible for Seller to use accruals and prior

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months' estimates with true-up to actual activity, in subsequent periods, when preparing unaudited financial statements and the information on the checklist. If audited financial statements are prepared for Seller for the year, Seller shall provide such statements to SCE within five (5) Business Days after those statements are issued.

- (ii) Within fifteen (15) days following the end of each fiscal quarter (for each quarter that such treatment is required), Seller shall deliver to SCE unaudited financial statements and related footnotes, if applicable, of Seller as of the end of the quarterly period. The financial statements should include quarter-to-date and year-to-date information. SCE shall provide to Seller a checklist before the end of each quarter listing items which SCE believes are material to SCE and required for this purpose, and Seller shall provide the information on the checklist, subject to the availability of data from Seller's records. It is permissible for Seller to use accruals and prior months' estimates with true-up to actual activity, in subsequent periods, when preparing the unaudited financial statements and the information on the checklist.
- (iii) If Seller regularly prepares its financial data in accordance with GAAP or IFRS, ~~or any successor to either of the foregoing ("Successor")~~, the financial information provided to SCE shall be prepared in accordance with such principles. If Seller is not a SEC registrant and does not regularly prepare its financial data in accordance with GAAP, ~~or IFRS or Successor~~, the information provided to SCE shall be prepared in a format consistent with Seller's regularly applied accounting principles, e.g., the format that Seller uses to provide financial data to its auditor.
- (c) If the Financial Consolidation Requirement is applicable, then promptly upon Notice from SCE, Seller shall allow SCE's independent registered public accounting firm such access to Seller's records and personnel, as reasonably required so that SCE's independent registered public accounting firm can conduct financial statement audits in accordance with the standards of the Public Company Accounting Oversight Board (United States), as well as internal control audits in accordance with Section 404 of the Sarbanes-Oxley Act of 2002, as applicable. All expenses for the foregoing work of SCE's independent registered public accounting firm shall be borne by SCE. If SCE's independent registered public accounting firm during or as a result of the audits permitted in this Section 10.19(c) determines a material weakness or significant deficiency, as defined by GAAP, ~~or IFRS or Successor~~, as applicable, exists in Seller's internal controls over financial reporting, then within ninety (90) days of Seller's receipt of Notice from SCE, Seller shall remediate any such material weakness or significant deficiency; *provided, however*, that Seller has the right to challenge the appropriateness of any determination of material weakness or significant deficiency. Seller's true up to actual activity for yearly or quarterly information as

provided herein shall not be evidence of material weakness or significant deficiency.

- (d) SCE shall treat Seller's financial statements and other financial information provided under the terms of this Section 10.19 in strict confidence and, accordingly:
 - (i) Shall utilize such Seller financial information *only* for purposes of preparing, reviewing or certifying SCE's or any SCE parent company financial statements, for making regulatory, tax or other filings required by law in which SCE is required to demonstrate or certify its or any parent company's financial condition or to obtain credit ratings;
 - (ii) Shall make such Seller financial information available only to its officers, directors, employees or auditors who are responsible for preparing, reviewing or certifying SCE's or any SCE parent company financial statements, to the SEC and the Public Company Accounting Oversight Board (United States) in connection with any oversight of SCE's or any SCE parent company financial statement and to those persons who are entitled to receive confidential information as identified in Section 10.10; and
 - (iii) SCE shall ensure that its internal auditors and independent registered public accounting firm (1) treat as confidential any information disclosed to them by SCE pursuant to this Section 10.19, (2) use such information solely for purposes of conducting the audits described in this Section 10.19, and (3) disclose any information received only to personnel responsible for conducting the audits.
- (e) If the Financial Consolidation Requirement is applicable, then, within two (2) Business Days following the occurrence of any event from the Effective Date through the last day of the Term affecting Seller which Seller would be required to disclose in a Form 8-K filing with the SEC if Seller was subject to the form 8-K filing requirements, Seller shall provide to SCE a Notice describing such event in sufficient detail to permit SCE to make a Form 8-K filing.

If, after consultation and review, the Parties do not agree on issues raised by Section 10.19(a), then such dispute shall be subject to review by another independent audit firm not associated with either Party's respective independent registered public accounting firm, reasonably acceptable to both Parties. This third-party independent audit firm will render its recommendation on whether consolidation by SCE is required. If the independent audit firm associated with SCE still determines, after review by the third-party independent audit firm, that SCE must consolidate, then Seller shall provide the financial information necessary to permit consolidation to SCE; *provided, however*, that in addition to the protections in Section 10.19(d), such information shall be password protected and available only to those specific officers, directors, employees and auditors

RAP ID# [Number], [Seller's Name]

who are preparing and certifying the consolidated financial statements and not for any other purpose.

*** End of ARTICLE TEN ***

The contents of this document are subject to restrictions on disclosure as set forth herein.

ARTICLE ELEVEN. CHANGE IN ELECTRIC MARKET DESIGN

If a Change in CAISO Tariff renders this Agreement or any terms herein incapable of being performed or administered, then either Party, on Notice, may request the other Party to enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens and obligations set forth in this Agreement as of the Effective Date.

Upon receipt of a Notice requesting negotiations, the Parties shall negotiate in good faith.

If the Parties are unable, within sixty (60) days after the sending of the Notice requesting negotiations, either to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then either Party may submit issues pertaining to changes to this Agreement to mediation and arbitration as provided in Article Twelve.

A change in cost will not in itself be deemed to render this Agreement or any terms therein incapable of being performed or administered, or constitute, or form the basis of, a Force Majeure event.

*** End of ARTICLE ELEVEN ***

ARTICLE TWELVE. MEDIATION AND ARBITRATION**12.01 Dispute Resolution.**

Other than requests for provisional relief under Section 12.04, any and all Disputes which the Parties have been unable to resolve by informal methods after undertaking a good faith effort to do so, must first be submitted to mediation under the procedures described in Section 12.02 below, and if the matter is not resolved through mediation, *then* for final and binding arbitration under the procedures described in Section 12.03 below.

The Parties waive any right to a jury and agree that there will be no interlocutory appellate relief (such as writs) available. Any Dispute resolution process shall be commenced no later than one (1) year from the date the Dispute occurred; *provided*, if the facts giving rise to the Dispute were not reasonably capable of being discovered at the time of their occurrence, then no later than one (1) year from the earliest date that such facts were reasonably capable of being discovered, and in no event more than four (4) years after the Dispute occurred. If any Dispute resolution process pursuant to Article Twelve with respect to a Dispute is not commenced within such one (1) year time period, such Dispute shall be waived and forever barred, without regard to any other limitations period set forth by law or statute.

12.02 Mediation.

Either Party may initiate mediation by providing Notice to the other Party in accordance with Section 10.09 of a written request for mediation, setting forth a description of the Dispute and the relief requested.

The Parties will cooperate with one another in selecting the mediator ("Mediator") from the panel of neutrals from Judicial Arbitration and Mediation Services, Inc. ("JAMS"), its successor, or any other mutually acceptable non-JAMS Mediator, and in scheduling the time and place of the mediation.

Such selection and scheduling will be completed within forty-five (45) days after Notice of the request for mediation.

Unless otherwise agreed to by the Parties, the mediation will not be scheduled for a date that is greater than one hundred twenty (120) days from the date of Notice of the request for mediation.

The Parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs (other than each Party's individual attorneys' fees and costs related to the Party's participation in the mediation, which fees and costs will be borne by such Party).

All offers, promises, conduct and statements, whether oral or written, made in connection with or during the mediation by either of the Parties, their agents, representatives, employees, experts and attorneys, and by the Mediator or any of the Mediator's agents, representatives and employees, will not be subject to discovery and will be confidential,

privileged and inadmissible for any purpose, including impeachment, in any arbitration or other proceeding between or involving the Parties, or either of them, *provided*, evidence that is otherwise admissible or discoverable will not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

12.03 Arbitration.

Either Party may initiate binding arbitration with respect to the matters first submitted to mediation by providing Notice in accordance with Section 10.08 of a demand for binding arbitration before a single, neutral arbitrator (the “Arbitrator”) within sixty (60) days following the unsuccessful conclusion of the mediation provided for in Section 12.02, above. If Notice of arbitration is not provided by either Party within sixty (60) days following the unsuccessful conclusion of the mediation provided for in Section 12.02 above, the Dispute resolution process shall be deemed complete and further resolution of such Dispute shall be barred, without regard to any other limitations period set forth by law or statute.

The Parties will cooperate with one another in selecting the Arbitrator within sixty (60) days after Notice of the demand for arbitration and will further cooperate in scheduling the arbitration to commence no later than one hundred eighty (180) days from the date of Notice of the demand.

If, notwithstanding their good faith efforts, the Parties are unable to agree upon a mutually-acceptable Arbitrator, the Arbitrator will be appointed as provided for in California Code of Civil Procedure Section 1281.6.

To be qualified as an Arbitrator, each candidate must be a retired judge of a trial court of any state or federal court, or retired justice of any appellate or supreme court.

Unless otherwise agreed to by the Parties, the individual acting as the Mediator will be disqualified from serving as the Arbitrator in the dispute, although the Arbitrator may be another member of the JAMS panel of neutrals or such other panel of neutrals from which the Parties have agreed to select the Mediator.

Upon Notice of a Party’s demand for binding arbitration, such Dispute submitted to arbitration, including the determination of the scope or applicability of this agreement to arbitrate, will be determined by binding arbitration before the Arbitrator, in accordance with the laws of the State of California, without regard to principles of conflicts of laws.

Except as provided for herein, the arbitration will be conducted by the Arbitrator in accordance with the rules and procedures for arbitration of complex business disputes for the organization with which the Arbitrator is associated.

Absent the existence of such rules and procedures, the arbitration will be conducted in accordance with the California Arbitration Act, California Code of Civil Procedure Section 1280 *et seq.* and California procedural law (including the Code of Civil Procedure, Civil Code, Evidence Code and Rules of Court, but excluding local rules).

Notwithstanding the rules and procedures that would otherwise apply to the arbitration, and unless the Parties agree to a different arrangement, the place of the arbitration will be in Los Angeles County, California.

Also notwithstanding the rules and procedures that would otherwise apply to the arbitration, and unless the Parties agree to a different arrangement, discovery will be limited as follows:

- (a) Before discovery commences, the Parties shall exchange an initial disclosure of all documents and percipient witnesses which they intend to rely upon or use at any arbitration proceeding (except for documents and witnesses to be used solely for impeachment);
- (b) The initial disclosure will occur within thirty (30) days after the initial conference with the Arbitrator or at such time as the Arbitrator may order;
- (c) Discovery may commence at any time after the Parties' initial disclosure;
- (d) The Parties will not be permitted to propound any interrogatories or requests for admissions;
- (e) Discovery will be limited to twenty-five (25) document requests (with no subparts), three (3) lay witness depositions, and three (3) expert witness depositions (unless the Arbitrator holds otherwise following a showing by the Party seeking the additional documents or depositions that the documents or depositions are critical for a fair resolution of the Dispute or that a Party has improperly withheld documents);
- (f) Each Party is allowed a maximum of three (3) expert witnesses, excluding rebuttal experts;
- (g) Within sixty (60) days after the initial disclosure, or at such other time as the Arbitrator may order, the Parties shall exchange a list of all experts upon which they intend to rely at the arbitration proceeding;
- (h) Within thirty (30) days after the initial expert disclosure, the Parties may designate a maximum of two (2) rebuttal experts;
- (i) Unless the Parties agree otherwise, all direct testimony will be in form of affidavits or declarations under penalty of perjury; and
- (j) Each Party shall make available for cross examination at the arbitration hearing its witnesses whose direct testimony has been so submitted.

Subject to Article Seven, the Arbitrator will have the authority to grant any form of equitable or legal relief a Party might recover in a court action. The Parties acknowledge and agree that irreparable damage would occur if certain provisions of this Agreement are not performed in accordance with the terms of the Agreement, that money damages would not be a sufficient remedy for any breach of these provisions of this Agreement, and that the Parties shall be entitled, without the requirement of posting a bond or other

security, to specific performance and injunctive or other equitable relief as a remedy for a breach of Section 2.04(b), 3.01, [3.02,] 3.06(b), 3.09 or 10.10 of this Agreement.

Judgment on the award may be entered in any court having jurisdiction.

The Arbitrator must, in any award, allocate all of the costs of the binding arbitration (other than each Party's individual attorneys' fees and costs related to the Party's participation in the arbitration, which fees and costs will be borne by such Party), including the fees of the Arbitrator and any expert witnesses, against the Party who did not prevail.

Until such award is made, however, the Parties will share equally in paying the costs of the arbitration.

At the conclusion of the arbitration hearing, the Arbitrator shall prepare in writing and provide to each Party a decision setting forth factual findings, legal analysis, and the reasons on which the Arbitrator's decision is based. The Arbitrator shall also have the authority to resolve claims or issues in advance of the arbitration hearing that would be appropriate for a California superior court judge to resolve in advance of trial. The Arbitrator shall not have the power to commit errors of law or fact, or to commit any abuse of discretion, that would constitute reversible error had the decision been rendered by a California superior court. The Arbitrator's decision may be vacated or corrected on appeal to a California court of competent jurisdiction for such error. Unless otherwise agreed to by the Parties, all proceedings before the Arbitrator shall be reported and transcribed by a certified court reporter, with each Party bearing one-half of the court reporter's fees.

12.04 Provisional Relief.

The Parties acknowledge and agree that irreparable damage would occur if certain provisions of this Agreement are not performed in accordance with the terms of this Agreement, that money damages would not be a sufficient remedy for any breach of these provisions of this Agreement, and that the Parties shall be entitled, without the requirement of posting a bond or other security, to seek a preliminary injunction, temporary restraining order, or other provisional relief as a remedy for a breach of Section 2.04(b), 3.01, [3.02,] 3.06(b), 3.09 or 10.10 of this Agreement in any court of competent jurisdiction, notwithstanding the obligation to submit all other disputes (including all claims for monetary damages under this Agreement) to arbitration pursuant to Section 12.01. The Parties further acknowledge and agree that the results of the arbitration may be rendered ineffectual without the provisional relief.

Such a request for provisional relief does not waive a Party's right to seek other remedies for the breach of the provisions specified above in accordance with Section 12.01, notwithstanding any prohibition against claim-splitting or other similar doctrine. The other remedies that may be sought include specific performance and injunctive or other equitable relief, plus any other remedy specified in this Agreement for the breach of the provision, or if the Agreement does not specify a remedy for the breach, all other remedies available at law or equity to the Parties for the breach.

*** End of ARTICLE TWELVE ***

RAP ID# [Number], [Seller's Name]

In WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date first written:

[SELLER'S NAME],

*a [Seller's jurisdiction of organization
and type of organization].*

**SOUTHERN CALIFORNIA EDISON
COMPANY,**

a California corporation.

By:

By:

[Name]

[Name]

[Title]

[Title]

Date: _____

Date: _____

The contents of this document are subject to restrictions on disclosure as set forth herein.

Signatures

EXHIBITS

EXHIBIT A*Definitions*

The following terms shall have the following meaning for purposes of this Agreement.

“AC” means alternating current.

“Accepted Compliance Costs” has the meaning set forth in Section 1.0807.

“Account Holder” has the meaning set forth in the WREGIS Operating Rules, as applicable to the Generating Facility as the Registered Generating Unit.

“Actual Availability Report” means a report to be prepared by Seller in the form of Exhibit ~~NO~~ containing the information described in Section 3.22.

“Actual Available Capacity” means the sum of the capacity, in MWs, of all generating units of the Generating Facility that were available at the end of the Settlement Interval, as indicated by the Actual Availability Report.

{SCE Comment: All resources other than Solar Photovoltaic.}

“Actual Available Capacity” means the sum of the capacity, in MWs, of all Current Inverters of the Generating Facility that were available at the end of the Settlement Interval, as indicated by the Actual Availability Report.

{SCE Comment: Solar Photovoltaic only.}

“Affiliate” means, with respect to a Party, any entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with that Party.

“Affiliate Manager” has the meaning set forth in Section 3.05(a). *{SCE Comment: Language applicable to projects that utilize Shared Facilities.}*

“Aggregate Network Upgrade Costs” has the meaning set forth in Section 2.03(b)(i).

“Agreement” has the meaning set forth in the Preamble.

“Annual Degradation Factor” has the meaning set forth in Section 1.01(j).

{SCE Comment: Solar Photovoltaic only.}

“Applicable Laws” means all constitutions, treaties, laws, ordinances, rules, regulations, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority that apply to either or both of the Parties, the Generating Facility or the terms of this Agreement.

“Arbitrator” has the meaning set forth in Article Twelve.

The contents of this document are subject to restrictions on disclosure as set forth herein.

“Automated Clearing House” means ~~that specific the~~ electronic ~~network for financial transactions and fund transfers managed~~ funds transfer system operated by the Automated Clearing House Network or any successor entity.

“Availability Incentive Payments” has the meaning set forth in the CAISO Tariff.

“Availability Standards” has the meaning set forth in the CAISO Tariff.

“Availability Workbook” has the meaning set forth in Exhibit ~~NO~~.

“Bankrupt” means with respect to any entity, such entity:

- (a) Files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it;
- (b) Makes an assignment or any general arrangement for the benefit of creditors;
- (c) Otherwise becomes bankrupt or insolvent (however evidenced);
- (d) Has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to such entity or any substantial portion of its property or assets; or
- (e) Is generally unable to pay its debts as they fall due.

“Bankruptcy Code” means the United States Bankruptcy Code (11 U.S.C. §101 *et seq.*), as amended, and any successor statute.

“Bid” has the meaning as set forth in the CAISO Tariff.

“Business Day” means any day except a Saturday, Sunday, a Federal Reserve Bank holiday, or the Friday following Thanksgiving. A Business Day begins at 8:00 a.m. and end at 5:00 p.m. local time for the Party sending the Notice or payment or performing a specified action.

“Business Practice Manuals” or “BPMs” has the meaning as set forth in the CAISO Tariff.

“Buyer” means Southern California Edison Company.

“CAISO” means the California Independent System Operator Corporation ~~or successor entity~~.

“CAISO Approved Meter” means a CAISO approved revenue quality meter or meters, CAISO approved data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, all electric energy produced by the Generating Facility less Station Use.

“CAISO-Controlled Grid” has the meaning as set forth in the CAISO Tariff.

RAP ID# [Number], [Seller's Name]

“CAISO Costs” means the debits, costs, penalties and interest that are directly assigned by the CAISO to the CAISO Resource ID for the Generating Facility for, or attributable to, Scheduling or deliveries from the Generating Facility under this Agreement in each applicable Settlement Interval.

“CAISO Exemption” means that certain exemption letter granted by the CAISO, or any successors thereto, that permits Seller to install the low-side metering scheme required by the Shared Transformer, as required under Section 10.2.10.3 of the CAISO Tariff.

“CAISO Exemption Cure Period” shall have the meaning set forth in Section 6.02(c). *{SCE Comment: Language only applicable to projects that utilize a shared transformer.}*

“CAISO Markets” has the meaning as set forth in the CAISO Tariff.

“CAISO Resource ID” means the number or name assigned by the CAISO to the CAISO Approved Meter.

“CAISO Revenues” means the credits and other payments incurred or received by SCE as a result of energy from the Generating Facility delivered to any CAISO administered market by Seller, including costs and revenues associated with CAISO dispatches, for each applicable Settlement Interval.

“CAISO Sanctions” means any sanctions directly assigned by the CAISO to Seller, the CAISO Resource ID or the Generating Facility.

“CAISO Tariff” means the California Independent System Operator Corporation ~~Operating Agreement and~~ Tariff, Business ~~Practice~~Practdctice Manuals (BPMs), ~~Operating Agreement~~, and Operating Procedures, including the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time-to-time and approved by FERC, if applicable.

“Calculation Period” has the meaning set forth in Section 3.07(a)(i).

“California Renewables Portfolio Standard” means the California Public Utilities Code Section 399.11, *et seq.*

“Capacity Attributes” means any and all current or future defined characteristics, certificates, tags, credits, ancillary service attributes, or accounting constructs, howsoever entitled, including any accounting construct counted toward any Resource Adequacy Requirements, attributed to or associated with the Generating Facility or any unit of generating capacity of the Generating Facility throughout the Delivery Term, including:

- (a) resource adequacy attributes, as may be identified from time to time by the CPUC, CAISO, or other Governmental Authority having jurisdiction, that can be counted toward RAR;

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (b) resource adequacy attributes or other locational attributes for the Generating Facility related to a Local Capacity Area, as may be identified from time to time by the CPUC, CAISO or other Governmental Authority having jurisdiction, associated with the physical location or point of electrical interconnection of the Generating Facility within the CAISO-Controlled Grid, that can be counted toward a Local RAR; and
- (c) flexible capacity resource adequacy attributes for the Generating Facility, including, without limitation, the amount of EFC as may be identified from time to time by the CPUC, CAISO, or other Governmental Authority having jurisdiction, that can be counted toward Flexible RAR.

“Capacity Procurement Mechanism” or “CPM” has the meaning as set forth in the CAISO Tariff.

{SCE Comment: FCDS projects only.}

~~“Cash Collateral Simple Interest” means the product of the following three factors: (a) dollar amount on which an interest payment is based; (b) Federal Funds Effective Rate; and (c) the number of days in the calculation period divided by 360.~~

“CEC” means the California Energy Commission.

“CEC Certification” means certification by the CEC that the Generating Facility is an ERR for purposes of the RPS Legislation and that all electric energy produced by the Generating Facility qualifies as generation from an ERR for purposes of the RPS Legislation.

“CEC Pre-Certification” means provisional certification of the proposed Generating Facility as an ERR by the CEC upon submission by a facility of a complete CEC-RPS-1B application and required supplemental information.

“CEC Verification” means verification by the CEC based on ongoing reporting by Seller that the Generating Facility is an ERR for purposes of the RPS Legislation and that all electric energy produced by the Generating Facility qualifies as generation from an ERR for purposes of the RPS Legislation.

“CFR” means the Code of Federal Regulations, as may be amended from time to time.

“Change in CAISO Tariff” means that the CAISO Tariff has been changed and such change has a material adverse impact on either Party, or the CAISO has been dissolved or replaced and any successor to the CAISO operates under rules, protocols, procedures or standards that differ in a material respect from the CAISO Tariff, after the Effective Date.

“Check Meter” means the SCE revenue-quality meter section or meter, which SCE may require at its discretion, as set forth in Section 3.08(b), and which will include those devices normally supplied by SCE or Seller under the applicable utility electric service requirements.

“Claiming Party” has the meaning set forth in Section 5.02.

“Collateral Assignment” has the meaning set forth in Section 10.05.

“Collateral Assignment Agreement” has the meaning set forth in Section 10.05.

“Commercial Operation” is the status of the Generating Facility upon Seller’s satisfaction of all of the conditions set forth in Section 2.02(b) and as of the Commercial Operation Date.

“Commercial Operation Date” has the meaning set forth in Section 2.02(b).

“Commercial Operation Deadline” has the meaning set forth in Section 1.03.

“Compliance Actions” has the meaning set forth in Section 1.0807.

“Compliance Expenditure Cap” means the dollar amount set forth in Section 1.0807.

“Confidential Information” shall mean (i) this Agreement, (ii) all oral or written communications exchanged between the Parties pursuant to this Agreement, except for communications and information described in Section 10.10(c) of this Agreement, and (iii) all oral or written communications exchanged between the Parties as part of, or arising out of, Seller’s Proposal (including the fact that Seller submitted a Proposal, and, the fact that SCE short-listed the Proposal).

“Construction Permits” means any permits issued by the Governmental Authority having jurisdiction that grant Seller the authority to develop and construct the Generating Facility on the Site. Construction Permits include conditional use permit and authority to construct.

“Contract Capacity” means the lesser of (i) the amount of electric energy generating capacity, set forth in Section 1.01(h), that Seller commits to install at the Site and (ii) the Demonstrated Contract Capacity.

“Control Area” means the electric power system (or combination of electric power systems) under the operational control of the CAISO or any other electric power system under the operational control of another organization vested with authority comparable to that of the CAISO.

“Costs” means, with respect to the Non-Defaulting Party, brokerage fees, commissions, legal expenses and other similar third-party transaction costs and expenses reasonably incurred by that Party in entering into any new arrangement which replaces this Agreement.

“CPUC” means the California Public Utilities Commission.

“CPUC Approval” means a final and non-appealable order of the CPUC, without conditions or modifications unacceptable to the Parties, or either of them, which contains the following terms:

- (a) Approves this Agreement in its entirety, including payments to be made by the Buyer, subject to CPUC review of the Buyer's administration of the Agreement; and
- (b) Finds that any procurement pursuant to this Agreement is procurement from an eligible renewable energy resource for purposes of determining Buyer's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 *et seq.*), Decision 03-06-071, or other applicable law.

CPUC Approval will be deemed to have occurred on the date that a CPUC decision containing such findings becomes final and non-appealable.

"Credit Rating" means with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt or deposit obligations (not supported by third-party credit enhancement) by the Ratings Agencies. If no rating is assigned to such entity's unsecured, senior long-term debt or deposit obligation by any Ratings Agency, then "Credit Rating" means the general corporate credit rating or long-term issuer rating assigned to such entity by the Ratings Agencies. If any entity is rated by more than one Ratings Agency and the ratings are at different levels, then "Credit Rating" means the lowest such rating.

"Current Inverters" means devices used to convert DC electric energy to AC electric energy.
{SCE Comment: For Solar Photovoltaic only.}

"Curtailed Product" or "CP" means energy that could have been delivered to the Delivery Point by Seller but which was not delivered (i) due to Seller's curtailment in accordance with Section 3.12(g)(iii), or (ii) if the CAISO Tariff prohibits, without any action by the CAISO or any Transmission Provider, any electric generating facilities from delivery of energy in excess of its Schedule, any such energy that the Generating Facility was precluded from delivering. The amount of energy that could have been delivered will be determined in accordance with Section 3.21 and Exhibit K.

"Curtailed Product Payment" means, in each month, the sum of all payments for *[(i)]* Paid Curtailed Product, *[and (ii) any lost Federal Production Tax Credits as set forth in Section 4.01(d)]*. *{SCE Comment: for Sellers that are eligible for the Federal Production Tax Credit}*

"Curtailment Order" means an order from SCE to Seller to reduce or stop the delivery of electric energy from the Generating Facility to SCE for any reason except as set forth in Sections 3.12(g)(i)-(ii).

"Daily Delay Liquidated Damages" has the meaning set forth in Section 3.06(d).

"DC" means direct current.

“DC Collection System” means the DC equipment, cables, components, devices and materials that interconnect the Photovoltaic Modules with the Current Inverters.

{SCE Comment: For Solar Photovoltaic only.}

“Defaulting Party” has the meaning set forth in Section 6.01.

“Delivery Network Upgrades” has the meaning forth in the CAISO Tariff, as applicable to the Generating Facility.

“Delivery Point” means the point of delivery of Product to the CAISO-Controlled Grid, as specified in Section 1.01(f) and set forth in the single-line diagram of the CAISO-Controlled Grid interconnection set forth in Exhibit B.

{SCE Comment: For a Generating Facility not directly connected to the CAISO-Controlled Grid, located outside the CAISO Control Area or connected to another transmission system operator, the Delivery Point will be the first point of interconnection with the CAISO-Controlled Grid.}

“Delivery Term” means the period beginning with the Commercial Operation Date and continuing throughout the end of the Term.

“Demonstrated Contract Capacity” means the Generating Facility’s total rated electric alternating current energy generating capacity

, which will equal the sum of the Inverter Block Unit Capacity of all Inverter Block Units in the Generating Facility

{SCE Comment: Solar Photovoltaic only.}

, which will equal the sum of the manufacturer’s nameplate ratings of all installed Wind Turbines, consistent with Prudent Electrical Practices and accepted industry standards, as indicated on the nameplates physically attached to the individual Wind Turbine generators,

{SCE Comment: Wind only.}

, which will equal the sum of the Metered Amounts for the Demonstration Hour,

{SCE Comment: All other technologies.}

as determined in accordance with Exhibit J.

“Demonstrated Installed DC Rating” means the sum of the Photovoltaic Module DC Ratings for all Photovoltaic Modules of the Generating Facility actually installed at the Site and verified by SCE pursuant to Exhibit J.

{SCE Comment: Solar Photovoltaic only.}

“Demonstration Date” has the meaning set forth in Exhibit J.

{SCE Comment: Intermittent only.}

“Demonstration Hour” has the meaning set forth in Exhibit J.
{SCE Comment: *Baseload only.*}

“Development Security” has the meaning set forth in Section ~~8.02~~8.01.

“Disclosing Party” has the meaning set forth in Section 10.10.

“Disclosure Order” has the meaning set forth in Section 10.10.

“Dispatch Instruction” has the meaning forth in the CAISO Tariff.

“Dispute” means any and all disputes, claims or controversies arising out of, relating to, concerning or pertaining to the terms of this Agreement, or to either Party’s performance or failure of performance under this Agreement.

“Disqualified Stock” means any capital stock that, by its terms (or by the terms of any security into which such stock is convertible, or for which such stock is exchangeable, in each case at the option of the holder of the capital stock), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder of the capital stock, in whole or in part, on or before the date that is ninety-one (91) days after the expiration of the Term of this Agreement.

“Diverse Business Enterprises” means a women, minority, disabled veteran, lesbian, gay, bisexual ~~and~~/or transgender business enterprise, as more particularly set forth in CPUC General Order 156.

“DLF” means a number that is a representation for all net electric energy losses or avoided losses, as filed by SCE at FERC, associated with the transmission of electric energy through the electric system from the high voltage side of the Generating Facility’s substation bus bar to the interface with the CAISO-Controlled Grid, also known as the distribution loss factor.

“Early Termination Date” has the meaning set forth in Section 6.02.

“EFC” means the effective flexible capacity (in MWs) of the Generating Facility pursuant to the Resource Adequacy Rulings and CAISO Tariff, in each case to the extent applicable, and which such flexible capacity may be used to satisfy a load-serving entity’s Flexible RAR.

“Effective Date” has the meaning set forth in the Preamble.

“Eligible Intermittent Resource Protocol” or “EIRP” means the CAISO’s intermittent resource program initially established pursuant to the CAISO Tariff or any successor program that SCE determines accomplishes a similar purpose.
{SCE Comment: *Intermittent only.*}

“Emergency” means:

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (a) An actual or imminent condition or situation which jeopardizes the integrity of Transmission Provider's electric system or the integrity of any other systems to which the Transmission Provider's electric system is connected, as determined by the Transmission Provider in its reasonable discretion, or any condition so defined and declared by the CAISO; or
- (b) An emergency condition as defined under an interconnection agreement and any abnormal interconnection or system condition that requires automatic or immediate manual action to prevent or limit loss of load or generation supply, that could adversely affect the reliability of the Transmission Provider's electric system or generation supply, that could adversely affect the reliability of any interconnected system, or that could otherwise pose a threat to public safety.

"Energy Communication Network" means the CAISO infrastructure network (data highway) used by all CAISO participants to exchange data to and from resources and CAISO.

"Energy Deviations" means the absolute value of the difference, in kWh, in any Settlement Interval between:

- (a) Forecast-Derived Energy; and
- (b) Metered Amounts plus Lost Output.

{SCE Comment: Intermittent only.}

- (a) Expected Energy; and
- (b) Metered Amounts plus Lost Output.

{SCE Comment: Baseload only.}

"Equitable Defense" means any bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain equitable remedies may be pending.

"ERR" has the meaning set forth in Section 10.02(b)(i).

"Event of Default" has the meaning set forth in Section 6.01.

"Event of Deficient Energy Deliveries" means any instance in which Seller fails to meet Seller's Energy Delivery Obligation as determined in accordance with Section 3.07(a)(ii).

"Event of Excess Deliveries" has the meaning set forth in Section 6.01(b)(vi).

{SCE Comment: Baseload only.}

"Excess Network Upgrade Costs" has the meaning set forth in Section 2.03(b).

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“Expected Annual Net Energy Production” means the Generating Facility’s expected annual Qualified Amounts, as calculated in accordance with Section 1.01(j).

“Expected Energy” has the meaning set forth in the CAISO Tariff.

{SCE Comment: Baseload only.}

~~“Federal Funds Effective Rate” means, for any given month, the average of the annual interest rates reported for all weekdays in the month opposite the caption “Federal Funds (effective)” as set forth in the H.15 release, or any successor publication, published by the Board of Governors of the Federal Reserve System.~~

“Federal Investment Tax Credit” means investment tax credit under Section 48 of the Internal Revenue Code as in effect from time-to-time throughout the Delivery Term or any successor or other provision providing for a federal tax credit determined by reference to capital investment in equipment used to produce renewable electric energy from *[solar][geothermal]* energy resources for which Seller, as the owner of the Generating Facility, is eligible.

{SCE Comment: For solar or geothermal projects.}

“Federal Investment Tax Credit Legislation” means validly enacted federal legislation that either (i) extends the Federal Investment Tax Credit in its current form, or (ii) extends to owners of solar and geothermal generating facilities the applicability of a renewable energy tax credit determined by reference to capital investment in (A) the construction of the Generating Facility or (B) equipment used to produce renewable electric energy from solar or geothermal energy resources for which Seller, as the owner of the Generating Facility, is eligible.

{SCE Comment: For solar and geothermal projects.}

“Federal Production Tax Credit” means production tax credit under Section 45 of the Internal Revenue Code as in effect from time-to-time throughout the Delivery Term or any successor or other provision providing for a federal tax credit determined by reference to renewable electric energy produced from wind or other renewable energy resources for which Seller, as the owner of the Generating Facility, is eligible.

{SCE Comment: For Sellers that are eligible for Federal Production Tax Credit.}

“Federal Production Tax Credit Legislation” means validly enacted federal legislation that extends to owners of generating facilities that produce electric energy from wind or other renewable energy resources the applicability of a renewable energy tax credit determined by reference to wind or other renewable energy resources for which Seller, as the owner of the Generating Facility, is eligible.

{SCE Comment: For wind and other renewable generating facilities.}

“FERC” means the Federal Energy Regulatory Commission.

The contents of this document are subject to restrictions on disclosure as set forth herein.

“Final Wind Report” means the unabridged and unredacted final report concerning the electric energy producing potential of the Site prepared by an independent engineer and which is used by Seller to obtain both:

- (a) Project financing or funding for the Generating Facility; and
- (b) The final design and binding price quote from the Wind Turbine manufacturer.
{SCE Comment: For Wind Only.}

“Financial Consolidation Requirement” has the meaning set forth in Section 10.19(a).

~~“Fitch” means Fitch Ratings Ltd.~~

“Flexible RAR” means the flexible capacity requirements established for load-serving entities by the CPUC pursuant to the Resource Adequacy Rulings, the CAISO pursuant to the CAISO Tariff, or by any other Governmental Authority having jurisdiction.

“Force Majeure” means any occurrence that was not anticipated as of the Effective Date that:

- (a) In whole or in part:
 - (i) Delays a Party’s performance under this Agreement;
 - (ii) Causes a Party to be unable to perform its obligations; or
 - (iii) Prevents a Party from complying with or satisfying the conditions of this Agreement;
- (b) Is not within the control of that Party; and
- (c) The Party has been unable to overcome by the exercise of due diligence, including an act of God, flood, drought, earthquake, storm, fire, pestilence, lightning and other natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, terrorism, sabotage, strike or labor dispute, or actions or inactions of any Governmental Authority (including a change in Applicable Law but excluding Seller’s compliance obligations as set forth in Section 3.19), or curtailment or reduction in deliveries at the direction of a Transmission Provider or the CAISO (except as set forth below).

Force Majeure does not include:

- (d) The lack of wind, sun or other fuel source of an inherently intermittent nature;
- (e) Reductions in generation from the Generating Facility resulting from ordinary wear and tear, deferred maintenance, Operator error, or the failure of equipment or parts;
- (f) ~~Curtailment~~ Full or partial curtailment or reduction in deliveries at the direction of a Transmission Provider or the CAISO when the basis of the curtailment or reduction in deliveries ~~ordered by a Transmission Provider or the CAISO is~~

The contents of this document are subject to restrictions on disclosure as set forth herein.

~~congestion~~ is congestion (including, but not limited to, congestion caused by outages, maintenance, construction or repair) arising in the ordinary course of operations of the Transmission Provider's system or the CAISO-Controlled Grid, including congestion caused by outages or capacity reductions for maintenance, construction or repair;

~~(g)~~ Full or partial curtailment or reduction in deliveries at the direction of a Transmission Provider or the CAISO when the curtailment or reduction in deliveries is caused by outages or capacity reductions as a result of maintenance, construction or repair;

~~(g)~~(h) Any delay in providing, or cancellation of, any Permit by the issuing Governmental Authority, except to the extent such delay or cancellation is the result of a force majeure claimed by the Governmental Authority;

~~(i)~~ Any delay in providing, or cancellation of, interconnection service by a Transmission Provider, except to the extent such delay or cancellation is the result of a force majeure claimed by the Transmission Provider;

~~(j)~~ Seller's ability to sell the Product at a price greater than that set forth in this Agreement;

~~(h)~~(k) A failure of performance of any other entity, except if such failure was caused by an event that would otherwise qualify as a Force Majeure. [; or

~~(i)~~(l) Any invalidation of the CAISO Exemption and failure to comply with the CAISO Tariff due, in any part, to the Shared Facilities.] {SCE Comment: Bracketed language only applicable to projects that utilize a shared transformer.}

"Forecast" means an hourly forecast provided in accordance with Exhibit D of either:

- (a) The sum of the continuous electrical output ratings for *[Current Inverters] [Wind Turbines] [the generator(s)]* (in MWs) in the Generating Facility that are operational; or
- (b) The sum of electric energy (in MWh) expected to be generated by the Generating Facility

in accordance with SCE instructions.

"Forecast-Derived Energy" means the amount of energy in MWh that would have been generated by the Generating Facility, as determined by SCE after the applicable Settlement Interval(s) based upon (i) the Forecast of available capacity provided by Seller in accordance with this Agreement, (ii) the meteorological data for the Generating Facility during the applicable Settlement Interval(s), and (iii) the expected generating capabilities of the Generating Facility.
{SCE Comment: Intermittent only.}

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“Forecasted Commercial Operation Date” means the date Seller anticipates, as of the Effective Date, will be the Commercial Operation Date, as set forth in Section 1.02.

“Forecasting” means the action of Seller in preparing and submitting the Forecasts to SCE.

“Forward Settlement Amount” means the Non-Defaulting Party’s Costs and Losses, on the one hand, netted against its Gains, on the other.

If the Non-Defaulting Party’s Costs and Losses exceed its Gains, then the Forward Settlement Amount shall be an amount owing to the Non-Defaulting Party.

If the Non-Defaulting Party’s Gains exceed its Costs and Losses, then the Forward Settlement Amount shall be Zero dollars (\$0).

The Forward Settlement Amount does not include consequential, incidental, punitive, exemplary or indirect or business interruption damages.

“Full Capacity Deliverability Status” or “FCDS” has the meaning set forth in the CAISO Tariff.

“GAAP” means ~~United States generally accepted~~ accounting principles ~~generally accepted in the United States of America~~ effect from time to time, consistently applied.

“Gains” means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement for the wha would have been the remaining Term of this Agreement, determined in a commercially reasonable manner.

Factors used in determining the economic benefit to a Party may include, ~~without limitation,~~ reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including ~~without limitation,~~ quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NYMEX), all of which should be calculated for the remaining Term of this Agreement, and includes the value of Green Attributes, Capacity Attributes and Resource Adequacy Benefits.

Only if the Non-Defaulting Party is unable, after using commercially reasonable efforts, to obtain third-party information to determine ~~the gain of economic benefits~~ Gains, then the Non-Defaulting Party may use information available to it internally suitable for this purpose ~~in accordance with~~ under prudent industry practices.

“Generating Facility” means Seller’s electric generating facility as more particularly described in Exhibit B, together with all materials, equipment systems, structures, features and improvements necessary to produce electric energy at the facility, *[and, with respect to the Shared Facilities, Seller’s interests in such Shared Facilities]* excluding the Site, land rights and interests in land. *{SCE Comment: Bracketed language only applicable to projects that have Shared Facilities.}*

The contents of this document are subject to restrictions on disclosure as set forth herein.

“Generating Facility Energy Yield Curve” means a table used to estimate the Generating Facility’s Metered Amounts, in kWhs, as a function of the recorded plane of array insolation, in kWh per square meter, at the Site as described in Exhibit K.

{SCE Comment: Solar Photovoltaic only.}

“Generating Facility Power Curve” means a table used to estimate the Generating Facility’s Metered Amounts as a function of the recorded wind speed at the Site as described in Exhibit K.

{SCE Comment: Wind only.}

“Generating Facility Power Curve” means a table used to estimate the Generating Facility’s Metered Amounts as a function of the recorded direct normal insolation at the Site as described in Exhibit K.

{SCE Comment: Solar Thermal only.}

“Generation Management System” or “GMS” means the automated system, or its successor system, employed by SCE real time operations to remotely monitor and dispatch the Generating Facility.

“Generation Operations Center” or “GOC” means the location of SCE’s real time operations personnel.

“Generator Operator” means the entity that Operates the Generating Facility and performs the functions of supplying energy and interconnected operations services as described in the NERC Reliability Standards.

“Generator Operator Obligations” means the obligations of a Generator Operator as set forth in all applicable NERC Reliability Standards.

“Generator Owner” means an entity that owns the Generating Facility and has registered with NERC as the entity responsible for complying with those NERC Reliability Standards applicable to owners of generating units as set forth in the NERC Reliability Standards.

“Generator Owner Obligations” means the obligations of a Generator Owner as set forth in all applicable NERC Reliability Standards.

“Geothermal Reservoir Report” means a report obtained by Seller from an expert independent consulting firm qualified in geothermal reservoir assessment which assesses the geothermal potential at the Site.

{SCE Comment: Geothermal only.}

“Governmental Authority” means:

- (a) Any federal, state, local, municipal or other government;

- (b) Any governmental, regulatory or administrative agency, commission, or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; or
- (c) Any court or governmental tribunal.

“Governmental Charges” has the meaning as set forth in Section 9.02.

“Green Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and its avoided emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as:

- (1) Any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO) and other pollutants;
- (2) Any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere;¹
- (3) The reporting rights to these avoided emissions, such as Green Tag Reporting Rights.

Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser’s discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of energy.

Green Attributes do not include:

- (i) Any energy, capacity, reliability or other power attributes from the Project,
- (ii) Production tax credits associated with the construction or operation of the Project and other financial incentives in the form of credits, reductions, or allowances associated with the Project that are applicable to a state or federal income taxation obligation,

¹ Avoided emissions may or may not have any value for GHG compliance purposes. Although avoided emissions are included in the list of Green Attributes, this inclusion does not create any right to use those avoided emissions to comply with any GHG regulatory program.

- (iii) Fuel-related subsidies or “tipping fees” that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or
- (iv) Emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits.

If the Project is a biomass or biogas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide SCE with sufficient Green Attributes to ensure that there are zero (0) net emissions associated with the production of electricity from the Project.

“Green Market Price” means the market price for energy and Green Attributes from an ERR.

“Green-e® Energy” means the national certification program for renewable energy administered by the Center for Resource Solutions, as such program may be amended, supplemented or otherwise changed from time to time, and about which information can be found at: <http://green-e.org>, or successor thereof.

{SCE Comment: Only applicable to GTSR Green Rate Projects only.}

“Green-e® Energy National Standard” means the most recent version of the standard in effect as of the Effective Date established by Green-e® Energy that defines eligibility criteria for renewable energy products, or successor version as such may be amended, supplemented or otherwise changed from time to time, and about which information can be found at http://www.green-e.org/getcert_re_stan.shtml#standard, or successor thereof.

{SCE Comment: Only applicable to GTSR Green Rate Projects only.}

“Hydro Certification” has the meaning set forth in Section 3.25.

{SCE Comment: Hydro only.}

“Ideal Specific Work” has the meaning set forth in Exhibit K.

{SCE Comment: Geothermal only.}

“IFRS” means the International Financial Reporting Standards, as in effect from time to time, consistently applied.

“Indemnified Party” has the meaning set forth in Section 10.03(d).

“Indemnitor” has the meaning set forth in Section 10.03(d).

“Installed DC Rating” means the lesser of (i) the amount of direct current electric energy generating capacity, set forth in Section 1.01(i), that Seller commits to install at the Site, and (ii) the Demonstrated Installed DC Rating, expressed in kW_{PDC}.

{SCE Comment: For Solar Photovoltaic only.}

“Interconnection Affiliate” means the Seller’s Affiliate that is a party to the interconnection agreement and is recognized as the customer under the CAISO Tariff or has the Interconnection Queue Position. *{SCE Comment: Language applicable to projects that utilize Shared Facilities.}*

“Interconnection Point” means the location where the Generating Facility first interconnects with the existing electrical transmission or distribution system, as reported on the Generating Facility’s interconnection agreement with the Transmission Provider, as described in Section 1.01(e).

“Interconnection Queue Position” is the order of Seller’s valid request for interconnection relative to all other valid interconnection requests, as specified in Section 1.0706.

“Interconnection Study” means any of the studies defined in the CAISO’s Tariff or any Transmission Provider’s tariff that reflect methodology and costs to interconnect the Generating Facility to the Transmission Provider’s electric grid.

“Interest ~~Rate~~Payment” means, ~~for any date:~~

~~The per annum rate of interest equal to a payment amount that results from the “Prime Rate” published in The Wall Street Journal under “Money Rates” or such date (or if not published on such date on product of the most recent preceding day on which published); plus following three factors:~~

~~(b) — Two percentage points (2%);~~

~~provided, in no event may (a) the Interest Rate exceed the maximum dollar amount on which an interest rate permitted payment is based;~~

~~(b) for any given month in which the payment is made, the average of the annual interest rates reported for all weekdays in such month opposite the caption “Federal funds (effective)” as set forth in the H.15 release, or any successor publication, published by Applicable Laws the Board of Governors of the Federal Reserve System; and~~

~~(c) the number of days in the calculation period divided by 360.~~

“Internal Revenue Code” means Title 26 of the United States Code.

“Inverter Block Unit” means each Current Inverter installed on the Site as part of the Generating Facility, along with the associated DC Collection Systems and Photovoltaic Modules connected to such Current Inverter.

“Inverter Block Unit Capacity” means, with respect to each Inverter Block Unit, the total rated electric alternating current energy generating capacity of such Inverter Block Unit, determined as the lesser of:

- (a) The manufacturer's output rating of the Current Inverter included in such Inverter Block Unit, consistent with Prudent Electrical Practices and accepted industry standards, as indicated on the nameplate physically attached to such Current Inverter; *provided*, if such output rating is not indicated in kW or MW on the nameplate physically attached to such Current Inverter, then such output rating in kW or MW will be deemed to be equal to the maximum continuous out power in kilovolt-amperes (kVA) or megavolt-amperes (MVA) indicated on the nameplate physically attached to such Current Inverter for purposes of this calculation; *provided further*, that if more than one Current Inverter output rating is provided, whether in kW, MW, kVA or MVA, the lowest of these shall be deemed to be the manufacturer's rating of such Current Inverter; or
- (b) The sum of the manufacturer's nameplate ratings of all Photovoltaic Modules included in such Inverter Block Unit, consistent with Prudent Electrical Practices and accepted industry standards, as indicated on the nameplates physically attached to such individual Photovoltaic Modules
{SCE Comment: Solar Photovoltaic only.}

"JAMS" has the meaning set forth in Article Twelve.

"kW" means a kilowatt of alternating current electric energy generating capacity.

"kWh" means a kilowatt-hour of alternating current electric energy.

"kW_{PDC}" means peak DC power.

{SCE Comment: Solar Photovoltaic only.}

~~"Late Payment Simple Interest" means the product of the following three factors: (a) dollar amount on which an interest payment is based; (b) Interest Rate; and (c) the number of days in the calculation period divided by 360.~~

"Lease" means one or more agreements whereby Seller leases the real property of the Site described in Section 1.01(b) from a third party, the term of which lease begins on or before the commencement of construction of the Generating Facility and extends at least through the last day of the Term.

"Lender" means any financial institutions ~~or successors in interest or assignees~~ that provide(s) development, bridge, construction, permanent debt or tax equity financing or refinancing for the Generating Facility to Seller.

“Letter of Credit” means an irrevocable, nontransferable standby letter of credit, substantially in the form of Exhibit L and acceptable to SCE, provided by Seller from an issuer acceptable to SCE that is either a U.S. ~~financial institution or a U.S. branch of a~~ commercial bank ~~or a U.S. branch of a foreign bank~~ with such ~~financial institution or~~ bank having total assets of at least ten billion U.S. dollars (US\$10,000,000.00) and a Credit Rating of at least “A-” from S&P, ~~“A-” from Fitch~~ or “A3” from Moody’s. If such ~~financial institution or~~ bank is rated by more than one Ratings Agency and the ratings are at different levels, the lowest rating shall be the Credit Rating for this purpose. Seller must bear the costs of all Letters of Credit.

“Letter of Credit Default” means with respect to a Letter of Credit, the occurrence of any of the following events:

- (a) The issuer of a Letter of Credit fails to maintain a Credit Rating of at least “A-” from S&P, ~~“A-” from Fitch,~~ or “A3” from Moody’s as required in the definition of “Letter of Credit”;
- (b) The issuer of the Letter of Credit fails to comply with or perform its obligations under such Letter of Credit;
- (c) The issuer of the Letter of Credit disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, the Letter of Credit;
- (d) ~~Such~~The Letter of Credit ~~expires or terminates, or~~ fails or ceases to be in full force and effect at any time ~~during the Term of this Agreement, in any such case without replacement;~~
- (e) Seller fails to provide an extended or replacement Letter of Credit prior to twenty (20) Business Days before the Letter of Credit expires or terminates; or
- (f) The issuer of the Letter of Credit becomes Bankrupt;

~~provided, however, that~~ no Letter of Credit Default will occur or be continuing in any event with respect to a Letter of Credit after the time such Letter of Credit is required to be canceled or returned to a Party or issuer in accordance with the terms of this Agreement.

“Local Capacity Area” has the meaning set forth in the CAISO Tariff.

“Local RAR” means the local Resource Adequacy Requirements established for load-serving entities by the CPUC pursuant to the Resource Adequacy Rulings, the CAISO pursuant to the CAISO Tariff, or by any other Governmental Authority having jurisdiction. “Local RAR” may also be known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, or local capacity requirement in other regulatory proceedings or legislative actions.

“Locational Marginal Price” or “LMP” has the meaning set forth in the CAISO Tariff.

“Losses” means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement for the remaining Term of this Agreement, determined in a commercially reasonable manner.

Factors used in determining economic loss to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NYMEX), all of which should be calculated for the remaining Term of this Agreement and must include the value of Green Attributes, Capacity Attributes and Resource Adequacy Benefits.

Only if the Non-Defaulting Party is unable, after using commercially reasonable efforts, to obtain third-party information to determine the loss of economic benefits, then the Non-Defaulting Party may use information available to it internally suitable for these purposes in accordance with prudent industry practices.

“Lost Output” means the reduction in Qualified Amounts over the relevant measurement period that the Generating Facility was available to produce and could reasonably have been expected to deliver, based upon the calculation method set forth in Exhibit K, but was not delivered due to a Lost Output Event.

“Lost Output Event” means any of the following occurrences which cause Seller to be unable to deliver energy:

- (a) Force Majeure;
- (b) An Event of Default where SCE is the Defaulting Party;
- (c) A curtailment or reduction of deliveries in accordance with Section 3.12(g) or as otherwise ordered or caused by the CAISO, or SCE acting as a Transmission Provider (including without limitation a curtailment or reduction that does not constitute a Force Majeure as provided in subparagraph (f) or (h) of the definition of Force Majeure); or
- (d) An Emergency, to the extent not already covered in item (c) above.

“Lost Output Report” means the monthly report of Lost Output in the form of the worksheet from the Lost Output Workbook prepared in accordance with the procedures set forth in Section 3.21 and Exhibit K.

“Lost Output Workbook” has the meaning set forth in Exhibit K.

“Material Permits” means all permits required for Commercial Operation of the Generating Facility, as set forth on Exhibit G.

“Mediator” has the meaning set forth in Article Twelve.

The contents of this document are subject to restrictions on disclosure as set forth herein.

“Meteorological Equipment” means the instruments and equipment that meet those specifications set forth in Exhibit **OP**, as may be modified by SCE from time to time to reflect the CAISO’s PIRP/EIRP protocol.
{SCE Comment: Intermittent only.}

“Metered Amounts” means the electric energy produced by the Generating Facility, expressed in kWh, as recorded by the CAISO Approved Meter(s), or Check Meter(s), as applicable.

“Milestone Schedule” means Seller’s schedule to develop the Generating Facility as set forth in Exhibit G, including any revisions thereto in accordance with this Agreement.

“Monthly Profile” has the meaning set forth in Exhibit K.
{SCE Comment: Biomass only.}

“Moody’s” means Moody’s Investor Services, Inc.

“Multiplier” has the meaning set forth in Section 3.02.
{SCE Comment: Only Generating Facilities providing guaranteed delivery of Resource Adequacy Benefits.}

“MW” means a megawatt (or 1,000 kilowatts) of alternating current electric energy generating capacity.

“MWh” means a megawatt-hour (or 1,000 kilowatt-hours) of alternating current electric energy.

“Negative LMP” means, in any Settlement Interval, the LMP at the Generating Facility’s PNode is less than Zero dollars (\$0).

“Negative LMP Costs” has the meaning set forth in Section 1.05(c)(i).

“NERC” means the North American Electric Reliability Corporation, or any successor thereto.

“NERC Reliability Standards” means those reliability standards applicable to the Generating Facility, or to the Generator Owner or the Generator Operator with respect to the Generating Facility, that are adopted by NERC and approved by the applicable regulatory authorities.

“NERC Standards Non-Compliance Penalties” means any and all monetary fines, penalties, damages, interest or assessments by the NERC, CAISO, WECC, a Governmental Authority or any entity acting at the direction of a Governmental Authority arising from or relating to a failure to perform the obligations of Generator Operator or Generator Owner as set forth in the NERC Reliability Standards.

“Net Qualifying Capacity” has the meaning set forth in the CAISO Tariff.

“Network Upgrades Cap” has the meaning set forth in Section 2.03(b)(i)(1).

The contents of this document are subject to restrictions on disclosure as set forth herein.

RAP ID# [Number], [Seller's Name]

“Non-Availability Charges” has the meaning set forth in the CAISO Tariff.

“Non-Defaulting Party” has the meaning set forth in Section 6.02.

“Non-Disclosure Agreement” shall mean that certain Non-Disclosure Agreement between the Parties dated as of _____, 20__.

“Notice” means notices, requests, statements or payments provided in accordance with Section 10.08 and Exhibit C.

“OMAR” means the Operational Metering Analysis and Reporting System operated and maintained by the CAISO as the repository of settlement quality meter data or its successor.

“Operate”, “Operated”, “Operating” or “Operation” means to provide (or the provision of) all the operation, engineering, purchasing, repair, supervision, training, inspection, testing, protection, use, management, improvement, replacement, refurbishment, retirement, and maintenance activities associated with operating the Generating Facility in accordance with Prudent Electrical Practices.

“Operating Procedures” has the meaning as set forth in the CAISO Tariff.

“Other Generating Facility(ies)” means the electric generating facility(ies), other than the Generating Facility, utilizing the Shared Facilities to enable delivery of energy from each such other generating facility to Seller’s Point of Interconnection, together with all materials, equipment systems, structures, features and improvements necessary to produce electric energy at each such other generating facility, but (i) with respect to the Shared Facilities, excluding Seller’s interests therein and (ii) excluding the real property on which each such other generating facility is, or will be located, land rights and interests in land.

“Other Seller(s)” means the seller(s) of energy from an Other Generating Facility.

{SCE Comment: Language applicable to projects that utilize Shared Facilities.}

“Outage Schedule” has the meaning set forth in Section 3.15.

“Paid Curtailed Product” means the CP for which SCE is obligated to pay Seller pursuant to Section 4.01(c).

“Participating Intermittent Resource” means an intermittent resource generating facility that is certified, and remains certified, under PIRP as set forth in the CAISO Tariff.

“Participating Intermittent Resource Program” or “PIRP” means the CAISO’s intermittent resource program initially established pursuant to Amendment No. 42 of the CAISO Tariff in Docket No. ER02-922-000 or any successor program that SCE determines accomplishes a

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similar purpose.

{SCE Comment: Intermittent only.}

“Party” or “Parties” have the meaning set forth in the Preamble.

“Payment Invoices” are invoices issued by SCE to Seller detailing amounts owed by SCE to Seller or by Seller to SCE for energy deliveries, CAISO Revenues, CAISO Costs, CAISO Sanctions, SCE Penalties and other charges and adjustments as may be owed by the Parties, in accordance with Exhibit E.

“Performance Assurance” means the collateral required under Section 8.~~03~~02.

“Performance Tolerance Band” has the meaning set forth in Exhibit ~~M~~N.

“Permit Approval” means approval by the relevant regulatory agencies of any Permit and shall be deemed obtained upon the issuance of such Permit, and shall not be invalidated by the pendency of an appeal or other post-issuance challenge to the issuance of the Permit.

“Permits” means all applications, approvals, authorizations, consents, filings, licenses, orders, permits or similar requirements imposed by any Governmental Authority, or the CAISO, in order to develop, construct, Operate, maintain, improve, refurbish and retire the Generating Facility or to Forecast or deliver the electric energy produced by the Generating Facility to SCE.

“Photovoltaic Module” means the individual module or component that produces DC electric energy from sun light.

“Photovoltaic Module DC Rating” means, for each Photovoltaic Module installed or to be installed at the Site, the number (expressed in kW_{PDC}) stated on the nameplate affixed thereto representing the manufacturer’s maximum (at “peak” sunlight) DC power rating at the standard test condition (“P_{mp}” or Power maximum at peak).

{SCE Comment: For Solar Photovoltaic.}

“PNode” has the meaning set forth in the CAISO Tariff.

“Portfolio” means a single portfolio of electrical energy generating assets consisting of the Generating Facility and the Other Generating Facility(ies), that is pledged as collateral security in connection with a financing thereof. *{SCE Comment: Language applicable to projects that utilize Shared Facilities.}*

“Product” has the meaning set forth in Section 1.01(d).

“Product Payment” has the meaning set forth in Exhibit E.

“Product Payment Allocation Factor” means the product payment allocation factors set forth in Exhibit I.

“Product Price” has the meaning set forth in Section 1.05.

“Product Replacement Damage Amount” has the meaning set forth in Section 3.07(b).

“Project” means the Generating Facility.

“Project Security” means Development Security or Performance Assurance.

“Proposal” means the proposal Seller submitted to SCE in response to SCE’s request for proposals to supply energy and associated Green Attributes, Capacity Attributes and Resource Adequacy Benefits from eligible renewable resources.

“Prudent Electrical Practices” means those practices, methods and acts that would be implemented and followed by prudent operators of electric energy generating facilities in the Western United States, similar to the Generating Facility, during the relevant time period, which practices, methods and acts, in the exercise of prudent and responsible professional judgment in the light of the facts known or that should reasonably have been known at the time the decision was made, could reasonably have been expected to accomplish the desired result consistent with good business practices, reliability and safety.

Prudent Electrical Practices shall include, at a minimum, those professionally responsible practices, methods and acts described in the preceding sentence that comply with manufacturers’ warranties, restrictions in this Agreement, and the requirements of Governmental Authorities, WECC standards, the CAISO and Applicable Laws.

Prudent Electrical Practices also includes taking reasonable steps to ensure that:

- (a) Equipment, materials, resources, and supplies, including spare parts inventories, are available to meet the Generating Facility’s needs;
- (b) Sufficient Operating personnel are available at all times and are adequately experienced and trained and licensed as necessary to Operate the Generating Facility properly and efficiently, and are capable of responding to reasonably foreseeable emergency conditions at the Generating Facility and Emergencies whether caused by events on or off the Site;
- (c) Preventive, routine, and non-routine maintenance and repairs are performed on a basis that ensures reliable, long term and safe Operation of the Generating Facility, and are performed by knowledgeable, trained, and experienced personnel utilizing proper equipment and tools;
- (d) Appropriate monitoring and testing are performed to ensure equipment is functioning as designed;
- (e) Equipment is not Operated in a reckless manner, in violation of manufacturer’s guidelines or in a manner unsafe to workers, the general public, or the

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Transmission Provider's electric system or contrary to environmental laws, permits or regulations or without regard to defined limitations such as, flood conditions, safety inspection requirements, operating voltage, current, volt ampere reactive (VAR) loading, frequency, rotational speed, polarity, synchronization, and control system limits; and

- (f) Equipment and components are designed and manufactured to meet or exceed the standard of durability that is generally used for electric energy generating facilities operating in the Western United States and will function properly over the full range of ambient temperature and weather conditions reasonably expected to occur at the Site and under both normal and emergency conditions.

"Qualified Amounts" means the Metered Amounts, expressed in kWh, that qualify as renewable power under the requirements of the California Renewables Portfolio Standard, or which do not so qualify solely due to a change in RPS Legislation occurring after the Effective Date, subject to Seller's compliance with Section 1.0807.

"Qualifying Capacity" means the maximum amount of Resource Adequacy Benefits a generating facility could provide before an assessment of its Net Qualifying Capacity, as determined pursuant to the relevant methodology established by the CPUC. For purposes of determining "Qualifying Capacity", it shall be assumed that the Generating Facility is fully deliverable.

{SCE Comment: Only Generating Facilities providing guaranteed delivery of Resource Adequacy Benefits.}

"Qualified Reporting Entity" has the meaning set forth in the WREGIS Operating Rules, as applicable to the Generating Facility as the Registered Generating Unit.

"RA Deficit Payments" has the meaning set forth in Section 3.02.

{SCE Comment: Only Generating Facilities providing guaranteed delivery of Resource Adequacy Benefits.}

"RAP ID" means the contract identification number set forth on the title page to this Agreement.

"Ratings Agency" means any of S&P, and Moody's, ~~and Fitch~~ (collectively, the "Ratings Agencies").

"Real-Time Availability" means Seller's cumulative available capacity of the Generating Facility on a real-time basis.

"Real-Time Market" has the meaning set forth in the CAISO Tariff.

"Registered Generating Unit" has the meaning set forth in WREGIS Operating Rules, as applicable to the Generating Facility.

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RAP ID# [Number], [Seller's Name]

“Renewable Energy Credit” or “REC” has the meaning set forth in CPUC Decision D.08-08-028, as such definition may be modified by the CPUC or Applicable Law from time to time.

“Required Material” means any permit, license, application, certification, design, specification, program, agreement, instrument, equipment, device, mechanism, or any other item in connection with the Generating Facility to be reviewed or approved by SCE or on SCE’s behalf, or requested or required of Seller by SCE or on SCE’s behalf, under this Agreement.

“Resource Adequacy Benefits” means the rights and privileges attached to the Generating Facility that satisfy any entity’s Resource Adequacy Requirements, as those obligations are set forth in any Resource Adequacy Rulings and shall include any local, zonal or otherwise locational attributes associated with the Generating Facility.

“Resource Adequacy Requirements” or “RAR” means the resource adequacy requirements applicable to a person or entity pursuant to the Resource Adequacy Rulings, the CAISO pursuant to the CAISO Tariff, or by any other Governmental Authority having jurisdiction.

“Resource Adequacy Rulings” means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024 and any other existing or subsequent ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, as such decisions, rulings, laws, rules or regulations may be amended or modified from time-to-time throughout the Delivery Term.

“Responsible Officer” means the chief financial officer, treasurer or any assistant treasurer of a Party or any employee of a Party designated by any of the foregoing.

“Restricted Period” has the meaning set forth in Section 2.04(b).

“RPS” means the State of California Renewable Portfolio Standard Program.

“RPS Legislation” means the State of California Renewable Portfolio Standard Program, as codified at California Public Utilities Code Section 399.11, *et seq.*

“S&P” means the Standard & Poor’s Financial Services LLC.

“SC Set-up Fee” has the meaning set forth in Section 3.13(a)(iii).

“SCE” has the meaning set forth in the Preamble.

“SCE Penalty” means the amount charged to Seller by SCE, in accordance with Exhibit ~~MN~~, for hours in a calendar month when Seller does not accurately provide availability information as set forth in Exhibit D.

{SCE Comment: For Intermittent only.}

The contents of this document are subject to restrictions on disclosure as set forth herein.

“Schedule,” “Scheduled” or “Scheduling” means the action of SCE in submitting Bids to the CAISO and receiving all CAISO Markets results from the CAISO.

“Scheduling Coordinator” or “SC” means an entity certified by the CAISO for the purposes of undertaking the functions specified by the CAISO Tariff.

“SEC” means the Securities and Exchange Commission.

“Security Interest” has the meaning set forth in Section 8.0504.

“Seller” has the meaning set forth in the Preamble.

“Seller’s Debt” means, without duplication, each of the following:

- (a) All indebtedness of Seller for borrowed money;
- (b) All obligations of Seller for the deferred purchase price of property or services which purchase price is due more than six months after the date of placing such property in service or taking delivery or title thereto or the completion of such services (other than trade payables not overdue by more than ninety (90) days incurred in the ordinary course of Seller’s business);
- (c) All obligations of Seller evidenced by notes, bonds, debentures, Disqualified Stock or other similar instruments;
- (d) All obligations of Seller created or arising under any conditional sale or other title retention agreement with respect to property acquired by Seller (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property);
- (e) All monetary obligations of Seller under:
 - (i) A lease of any property (whether real, personal or mixed) by Seller as lessee that, in conformity with GAAP, is accounted for as a capital lease on the balance sheet of Seller;
 - (ii) A so-called synthetic, off-balance sheet or tax retention lease; or
 - (iii) An agreement for the use or possession of property creating obligations which do not appear on the balance sheet of Seller but which, upon the insolvency or bankruptcy of Seller, would be characterized as indebtedness of Seller (without regard to accounting treatment);
- (f) All obligations, contingent or otherwise, of Seller under acceptance, letter of guaranty, letter of credit or similar facilities;
- (g) All obligations of Seller with respect to any redeemable equity interests in Seller, including in the case of preferred stock at the greater of the voluntary or involuntary liquidation preference plus accrued and unpaid dividends;

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (h) All obligations of Seller with respect to any swaps, caps or collar agreements or similar arrangements to hedge against fluctuations in interest rates or currency exchange rates or the exchange of nominal interest obligations, either generally or under specific contingencies, in each case, valued at the aggregate net mark-to-market value;
- (i) All indebtedness of others referred to in clauses (a) through (h) above guaranteed by Seller, or in effect guaranteed by Seller through an agreement:
 - (i) To pay or purchase such indebtedness or to advance or supply funds for the payment or purchase of such indebtedness;
 - (ii) To purchase, sell or lease (as lessee or lessor) property, or to purchase or sell services, primarily for the purpose of enabling the debtor to make payment of the indebtedness or to assure the holder of such indebtedness against loss;
 - (iii) To supply funds to or invest in the debtor (including any agreement to pay for property or services irrespective of whether such property is received or such services are rendered); or
 - (iv) Otherwise to assure a creditor against loss; and
- (j) Without duplication of the foregoing, all indebtedness referred to in clauses (a) through (i) above secured by any lien on property (including accounts and contract rights) owned by Seller.

The outstanding amount of indebtedness as described above at any date will be the outstanding balance at such date of all unconditional obligations as described above and, with respect to contingent obligations as described above, the maximum liability upon the occurrence of the contingency giving rise to the obligation.

Notwithstanding the foregoing, the term “Seller’s Debt” as used herein does not include Seller’s obligations under this Agreement and the Lease (provided that such Lease does not constitute an obligation of Seller described in clause (e) of the first sentence of this definition).

“Seller’s Energy Delivery Obligation” has the meaning set forth in Section 3.07(a)(i).

“Seller’s Ultimate Parent” shall mean [_____] or any successor entity thereto who maintains a direct or indirect majority ownership in Seller. *{SCE Comment: For projects that utilize Shared Facilities.}*

“Settlement Interval” has the meaning set forth in the CAISO Tariff.

“Shared Facilities” means the gen-tie lines, transformers, substations, or other equipment, permits, contract rights, and other assets and property (real or personal), in each case, as necessary to enable delivery of energy from Seller’s electric Generating Facility (which is

excluded from Shared Facilities) to the Point of Interconnection, including the interconnection agreement itself, that are used in common with Other Seller(s), as applicable.

“Shared Facilities Agreement(s)” has the meaning set forth in Section 3.05(a).

{SCE Comment: Language applicable to projects that utilize Shared Facilities.}

“Shared Facilities Area” means the area of real property upon which the Shared Facilities are or will be located, as more particularly described in Exhibit B.

“Shared Facilities Control” means that Seller either (i) owns an interest in the Shared Facilities Area (including in the form of an undivided co-tenancy (or similar shared) ownership interest in the Shared Facilities Area under the Shared Facilities Agreement), (ii) is the lessee of the Shared Facilities Area, or (iii) is the holder of a franchise agreement, easement or right-of-way grant or similar instrument with respect to the Shared Facilities Area.

“Shared Transformer” means the transformer shared by Seller and Other Seller as part of the Shared Facilities, which steps the voltage from [] kV to [] kV. *{SCE Comment: Language only applicable to projects that utilize a shared transformer.}*

“Site” means the real property on which the Generating Facility is, or will be located, as further described in Section 1.01(b) and Exhibit B *[, but excluding (a) that portion on which the Other Generating Facility is, or will be, located, as further described in Exhibit B, and (b) the Shared Facilities Area]. {SCE Comment: Bracketed language only applicable to projects that utilize Shared Facilities.}*

“Site Control” means that Seller shall:

- (a) Own the Site;
- (b) Be the lessee of the Site under a Lease;
- (c) Be the holder of a right-of-way grant or similar instrument with respect to the Site; or
- (d) Be the managing partner or other person or entity authorized to act in all matters relating to the control and Operation of the Site and the Generating Facility

; provided that, with respect to the period beginning on the Effective Date and ending on the day prior to the Commercial Operation Date, Seller may also be deemed to have “Site Control” if Seller has an unconditional option, at Seller’s sole discretion, to purchase or lease the Site.

“Solar Generating Unit” means the solar generator(s) installed on the Site as part of the Generating Facility including any replacements or substitutes therefore.

{SCE Comment: Solar Thermal only.}

“Solar Resource Evaluation Report” means a final report concerning the electric energy producing potential of the Site prepared by an independent engineer which assesses the solar

resource potential at the Site.
{SCE Comment: Solar only.}

“Station Use” means:

- (a) The electric energy produced by the Generating Facility that is used within the Generating Facility to power the lights, motors, control systems and other electrical loads that are necessary for Operation; and
- (b) The electric energy produced by the Generating Facility that is consumed within the Generating Facility’s electric energy distribution system as losses.

“Successor” has the meaning set forth in Section 8.09(b)(iii).

“Supervisory Control and Data Acquisition” or “SCADA” has the meaning set forth in the CAISO Tariff.

“Supplemental Lost Output” has the meaning set forth in Section 3.21.

“Supplemental Lost Output Report” has the meaning set forth in Section 3.21.

“Telemetry System” means a system of electronic components that interconnects the Generating Facility, GMS and the CAISO as set forth in Section 3.08(e).

“Term” means the term of this Agreement as set forth in Section 1.04.

“Term Year” means a twelve (12) month period beginning on the first day of the calendar month following the Commercial Operation Date and each successive twelve (12) month period thereafter.

“Termination Payment” means the sum of all amounts owed by the Defaulting Party to the Non-Defaulting Party under this Agreement, less any amounts owed by the Non-Defaulting Party to the Defaulting Party determined as of the Early Termination Date. The Forward Settlement Amount is part of and included in the Termination Payment.

“Theoretical Maximum Output” has the meaning set forth in Exhibit K.
{SCE Comment: Geothermal only.}

“TOD Period(s)” means the time of delivery period(s) set forth in Exhibit I.

“TOD Period Product Payment” means a portion of a Product Payment based upon the time of delivery of Product and calculated in accordance with the formula set forth in Section 2.02 of Exhibit E.

“Trading Day” has the meaning set forth in the CAISO Tariff.

RAP ID# [Number], [Seller's Name]

“Transmission Provider” means any entity or entities responsible for the interconnection of the Generating Facility with a Control Area or transmitting the Metered Amounts on behalf of Seller from the Generating Facility to the Delivery Point.

“Unincluded Capacity” has the meaning set forth in Section 3.06(b).

“Utilization Factor” has the meaning set forth in Exhibit K.

{SCE Comment: *Geothermal only.*}

“Web Client” means a web-based system approved by SCE.

“WECC” means the Western Electricity Coordinating Council, the regional reliability council for the Western United States, Northwestern Mexico and Southwestern Canada.

“Wind Turbines” means the wind turbine generators installed on the Site as part of the Generating Facility including any replacements or substitutes therefore.

{SCE Comment: *Wind only.*}

“WMDVBE” means women, minority, and disabled veteran business enterprise, as more particularly set forth in CPUC General Order 156.

“WREGIS” has the meaning set forth in Section 3.01(d)(iv).

“WREGIS Certificate(s)” has the same meaning as “Certificate” as defined by WREGIS in the WREGIS Operating Rules.

“WREGIS Operating Rules” means the rules published by the Western Electricity Coordination Council for the rules and operations of WREGIS.

*** End of EXHIBIT A ***

EXHIBIT B*Generating Facility and Site Description*

1. Generating Facility Description.

{SCE Comment: Seller must provide description of the Generating Facility equipment, systems, control systems and features, including a site plan drawing showing the general arrangement of the Generating Facility, and a single-line diagram(s) showing electrical arrangement of generating equipment, inverters, unit/service transformers, CAISO-Controlled Grid interconnection, interconnection transformer(s), metering, breakers, and disconnects (as applicable). To the extent applicable, Seller must include the designation system by which Seller identifies individual generating units.}

Name and Address of Generating Facility:

[Project Name]
[Address]
[City, State Zip Code]

Latitude and Longitude:

_____ ° Lat, _____ ° Long.

For Solar:

Technology: *[specify fixed tilt OR single-axis tracking OR dual-axis tracking AND monocrystalline silicon OR polycrystalline silicon OR thin film].*

Item	Manufacturer	Model Number	Rating	Quantity	Total Rating
Photovoltaic Modules			<i>[Rating, in W DC, of a single module]</i>		
Inverter			<i>[include temperature specific to rating, if applicable. e.g. 800kVA @ 50°C]</i>		
Transformer	<i>[optional]</i>	<i>[optional]</i>	<i>[include both kVA rating and high/low]</i>		

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RAP ID# [Number], [Seller's Name]

			voltage rating]		
Primary Step Up Transformer [if applicable]	[optional]	[optional]	[include both kVA rating and high/low voltage rating]		

[Unless stated otherwise, all fields in the table are required.]

For Wind:

Technology: Wind

Item	Manufacturer	Model Number	Hub Height	Rating	Quantity	Total Rating
Wind Turbine Generator				[Rating, in kW AC, of a single WTG]		
Medium Voltage Transformer	[optional]	[optional]		[include both kVA rating and high/low voltage rating]		
Primary Step Up Transformer [if applicable]	[optional]	[optional]		[include both kVA rating and high/low voltage rating]		

[Unless stated otherwise, all fields in the table are required.]

For Geothermal:

Technology: [specify Single Flash, Dual Flash, Direct Steam or Binary] Geothermal

Cooling Tower: [specify Evaporative or Dry Tower]

Item	Manufacturer	Model Number	Rating	Quantity	Total Rating
Turbine/Generator Set		[optional]			
Primary Step Up Transformer	[optional]	[optional]	[include both kVA rating and high/low]		

The contents of this document are subject to restrictions on disclosure as set forth herein.

RAP ID# [Number], [Seller's Name]

			<i>voltage rating</i>		
--	--	--	---------------------------	--	--

*[Unless stated otherwise, all fields in the table are required.]*Description of Shared Facilities: *[if applicable]*

2. Site Description.

{SCE Comment: Seller must provide a legal description of the site, including a site map.}

***** End of EXHIBIT B *****

EXHIBIT C*Notice List*

[SELLER'S NAME] ("Seller")	SOUTHERN CALIFORNIA EDISON COMPANY ("SCE")
All Notices are deemed provided in accordance with Section 10.08 if made to the address and facsimile numbers provided below:	Unless otherwise specified, all Notices are deemed provided in accordance with Section 10.08 if made to the Contract Sponsor at the address or facsimile number provided below:
Contract Sponsor: Attn: Street: City: Phone: Facsimile:	Contract Sponsor: Attn: Vice President of Energy Procurement & Management Street: 2244 Walnut Grove Avenue City: Rosemead, California 91770 Phone: 626-302-4023 Facsimile: 626-302-9622
Reference Numbers: Duns: Federal Tax ID Number:	Reference Numbers: Duns: 006908818 Federal Tax ID Number: 95-1240335
Contract Administration: Attn: Phone: Facsimile:	Contract Administration: Attn: Director, Contract Management and Administration Phone: 626-302-3126 Facsimile: 626-302-8168 Email: Energycontracts@sce.com
Forecasting: Attn: Control Room Phone: Facsimile:	Generation Operations Center: Attn: Preschedule Operations Phone: 626-307-4487 or 626-307-4420 Facsimile: 626-302-3409 E-mail: presched@sce.com
Day-Ahead Forecasting: Phone:	Day-Ahead Scheduling: Attn: Manager of Day-Ahead Operations Attn: Scheduling Desk Phone: 626-307-4425 or 626-307-4420 Facsimile: 626-307-4413 E-mail: presched@sce.com

The contents of this document are subject to restrictions on disclosure as set forth herein.

[SELLER'S NAME] ("Seller")	SOUTHERN CALIFORNIA EDISON COMPANY ("SCE")
Real-Time Forecasting: Phone:	Real-Time Scheduling: Attn: Manager of Real-Time Operations Attn: Operations Desk Phone: 626-307-4405 or 626-307-4453 Facsimile: 626-307-4416 E-mail: realtime@sce.com
	Short Term Planning:
Payment Invoices: Attn: Phone: Facsimile: E-mail:	Payment Invoices: Attn: Power Procurement - S&OS Phone: 626-302-3277 or 626-302-8908 Facsimile: 626-302-3276 E-mail:PPFDPowerSettle@sce.com
CAISO Costs and CAISO Sanctions and SCE Penalties: Attn: Phone: Facsimile: E-mail:	CAISO Costs, CAISO Sanctions and SCE Penalties: Attn: Power Procurement - S&OS Phone: 626-302-3277 or 626-302-8908 Facsimile: 626-302-3276 E-mail:PPFDPowerSettle@sce.com
Payments: Attn: Phone: Facsimile: E-mail:	Payments: Attn: Power Procurement S&OS Phone: 626-302-3277 or 626-302-8908 Facsimile: 626-302-3276 E-mail:PPFDPowerSettle@sce.com
Wire Transfer: BNK: ABA: ACCT:	Wire Transfer: BNK: JP Morgan Chase Bank ABA: 021000021 ACCT: 323-394434

[SELLER'S NAME] ("Seller")	SOUTHERN CALIFORNIA EDISON COMPANY ("SCE")
Credit and Collections: Attn: Phone: Facsimile: E-mail:	Credit Risk: Attn: Manager of Credit Risk Phone: 626-302-3672 Collateral: <u>Southern California Edison Company</u> <u>Attn: Manager of Risk Operations & Collateral</u> <u>Management</u> <u>2244 Walnut Grove Avenue, GO1 Quad 2A</u> <u>Rosemead, CA 91770</u> <u>Phone: (626) 302-3383</u> Email: scecollateral@sce.com
With additional Notices of an Event of Default or Potential Event of Default to: Attn: Phone: Facsimile: E-mail:	With additional Notices of an Event of Default or Potential Event of Default to: Attn: SCE Law Department Power Procurement Section Email: PPLegalNotice@sce.com
Lender: Attn: Phone: Facsimile: E-mail:	

*** End of EXHIBIT C ***

EXHIBIT D*Forecasting and Scheduling Requirements and Procedures*1. Introduction.

The Parties shall abide by the Forecasting and Scheduling requirements and procedures described below and shall agree upon reasonable changes to these requirements and procedures from time-to-time, as necessary to:

- (a) Comply with CAISO Tariff;
- (b) Accommodate changes to their respective generation technology and organizational structure; and
- (c) Address changes in the operating and Scheduling procedures of both SCE and the CAISO, including but not limited to, automated forecast and outage submissions.

2. Seller's Forecasting Requirements.

Seller must meet all of the following requirements for Forecasting as specified below.

- (a) No later than thirty (30) days before any day designated for Commercial Operation, Seller shall provide SCE, via the Web Client, with a 30-day, hourly Forecast of either or both:
 - (i) Capacity, in MW; or
 - (ii) Electric energy, in MWhas directed by SCE, for the thirty (30) day period commencing on the Commercial Operation Date.
- (b) If, after submitting the Forecast pursuant to Item 2(a), Seller learns that Commercial Operation will occur on a date and time other than that reflected on the Forecast, Seller shall provide an updated Forecast reflecting the new Commercial Operation Date at the earliest practicable time but no later than 5:00 p.m. Pacific Prevailing Time ("PPT") on the Wednesday before the revised Commercial Operation Date, if Seller has learned of the new Commercial Operation Date by that time, but in no event less than three (3) Business Days before the actual Commercial Operation Date.
- (c) If the Web Client becomes unavailable, Seller shall provide SCE with the Forecast by e-mailing SCE.
- (d) The Forecast, and any updated Forecasts provided pursuant to this Item 2, must:
 - (i) Not include any anticipated or expected electric energy losses after the CAISO Approved Meter or Check Meter; and

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- (ii) Limit hour-to-hour Forecast changes to no less than two hundred fifty (250) kWh or 0.25 MW, as applicable, during any period when the Web Client is unavailable. Seller shall have no restriction on hour-to-hour Forecast changes when the Web Client is available.
- (e) Commencing on or before 5:00 p.m. PPT of the Wednesday before the first week covered by the Forecast provided pursuant to Item 2(a) above and on or before 5:00 p.m. PPT every Wednesday thereafter until the end of the Delivery Term, Seller shall update the Forecast for the thirty (30) day period commencing on the Sunday following the weekly Wednesday Forecast update submission. Seller shall use the Web Client, if available, to supply this weekly update or, if the Web Client is not available, Seller shall provide SCE with the weekly Forecast update by e-mailing SCE.
- (f) Forecasting Electric Energy.

If Seller is Forecasting electric energy, in accordance with SCE's instructions, and Seller learns of any change in the total electrical energy output of the Generating Facility for a period covered by the most recent Forecast update resulting from any cause, including an unplanned outage, before the time that the next weekly update of the Forecast is due which results in variance in expected energy in any hour of plus (+) or minus (-) three percent (3%) from the energy reported in the most recent Forecast update, Seller shall provide an updated Forecast to SCE. This updated Forecast must be submitted to SCE by no later than:

 - (i) 5:00 a.m. PPT on the day before any day impacted by the change, if the change is known to Seller at that time. If the Web Client is not available, Seller shall e-mail these changes to presched@sce.com and immediately follow up with a phone call to SCE's Day-Ahead Scheduling Desk in accordance with Exhibit C;
 - (ii) Thirty (30) minutes before the commencement of any hour impacted by the change, if the change is known to Seller at that time; or
 - (iii) If the change is not known to Seller by the timeframes indicated in (i) or (ii) above, within twenty (20) minutes after Seller became aware or, using best efforts, should have become aware of the commencement of the event which caused the energy forecast change, e-mail changes to realtime@sce.com and immediately telephone SCE's Real-time Operations Desk in accordance with Exhibit C.
- (g) Forecasting Available Capacity.

If:

 - (i) Seller is Forecasting available capacity, in accordance with SCE's instructions;

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- (ii) Seller does not provide real-time communication of availability as provided in Section 3.08(g);
- (iii) The telecommunications path to obtain real-time data is inoperable; or
- (iv) Instrumentation is providing faulty or incorrect data; and

Seller learns of any change in the total available capacity of the Generating Facility for a period covered by the most recent Forecast update resulting from any cause, including an unplanned outage before the time that the next weekly update of the Forecast is due which Seller is required to report under the provisions of the CAISO Tariff related to PIRP/EIRP and under other applicable provisions of the CAISO Tariff related to availability and outage reporting, then Seller shall provide an updated Forecast to SCE. This updated Forecast must be submitted to SCE via the Web Client by no later than:

- (1) 5:00 a.m. PPT on the day before any day impacted by the change, if the change is known to Seller at that time. If the Web Client is not available, Seller shall e-mail these changes to presched@sce.com and immediately follow up with a phone call to SCE's Day-Ahead Scheduling Desk in accordance with Exhibit C;
- (2) Thirty (30) minutes before the commencement of any hour impacted by the change, if the change is known to Seller at that time; or
- (3) If the change is not known to Seller by the timeframes indicated in (1) or (2) above, within twenty (20) minutes after Seller becomes aware or, using best efforts, should have become aware of the event which caused the availability change, e-mail changes to realtime@sce.com and immediately telephone SCE's Real-time Operations Desk in accordance with Exhibit C.

(h) Seller's updated Forecast must reflect the following information:

- (i) The beginning date and time of the change;
- (ii) The expected ending date and time of the event;
- (iii) The expected availability, in MW (if so instructed by SCE);
- (iv) The expected energy, in MWh (if so instructed by SCE); and
- (v) Any other information required by the CAISO as communicated to Seller by SCE.

3. SCE's Scheduling Responsibilities.

SCE shall be responsible for Scheduling the Product in accordance with this Agreement.

RAP ID# [Number], [Seller's Name]

4. Seller's Outage Scheduling Requirements.

Seller shall meet all requirements and timelines for generation outage scheduling contained in the CAISO's Scheduled and Forced Outage Procedure 3220, or its successor, as posted on the CAISO's website.

*** End of EXHIBIT D ***

The contents of this document are subject to restrictions on disclosure as set forth herein.

Exhibit D

*Forecasting and Scheduling Requirements and Procedures
Page 4*

EXHIBIT E*Payments and Invoicing***1. COST RESPONSIBILITY, INVOICING AND PAYMENTS UPON COMMENCEMENT OF THE TERM****1.01 Cost Responsibility Upon Commercial Operation.****(a) SCE Cost Responsibility.**

Upon the Commercial Operation Date and for the remainder of the Term,

- (i) Except under the circumstances set forth in Section 4.01(e), SCE shall make monthly Product Payments to Seller for Product delivered to SCE calculated in the manner described in Section 1.02 below and Exhibit M;
- (ii) Except as set forth in Exhibit **MN** and Section 1.01(b) of Exhibit E, SCE shall be responsible for all CAISO Costs and CAISO Sanctions and have the right to receive all CAISO Revenues;

- (iii) To the extent that SCE requires Seller to participate in the PIRP/EIRP program, SCE shall be responsible for PIRP/EIRP forecasting fees.
{SCE Comment: For Intermittent Only.}

(b) Seller Cost Responsibility.

Upon the Commercial Operation Date and for the remainder of the Term:

- (i) If Seller fails to comply with the Forecasting provisions set forth in Exhibit D, Seller shall pay an SCE Penalty as set forth in Exhibit **MN**.
{SCE Comment: Intermittent only.}
- (ii) Seller shall be responsible for CAISO Costs and CAISO Sanctions, under the circumstances specified in Section 4.01(e) *[and RA Deficit Payments under the circumstances specified in Section 3.02]* *{SCE Comment: Only applicable if Seller has chosen the option to make RA Deficit Payments.}*
- (iii) Seller shall be responsible for Negative LMP Costs, if applicable, as set forth in Section 1.05(c)(i).
- (iv) Seller shall be responsible for CAISO Costs and CAISO Sanctions and receive CAISO Revenues under the circumstances specified in Section 1.05(c)(ii).
- (v) Seller shall make monthly payments calculated in the manner described in Section 1.02 below and Exhibit **MN**.

1.02 Product Payment Calculations After Commercial Operation Date.

For the purpose of calculating monthly payments for Product delivered to SCE as of the Commercial Operation Date in accordance with the terms of this Agreement (“Product Payments”), Qualified Amounts will be time-differentiated according to the TOD Periods

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set forth in Exhibit I and the pricing will be weighted by the Product Payment Allocation Factors.

Monthly Product Payments will equal the sum of (i) the sum of the TOD Period Product Payments for all TOD Periods in the month and (ii) the Curtailed Product Payment. Each TOD Period Product Payment will be calculated pursuant to the following formula, where “n” is the TOD Period being calculated:

$$\text{TOD PERIOD}_n \text{ PRODUCT PAYMENT} = A \times B \times (C - D - E) + F$$

Where:

- A = Product Price specified in Section 1.05 in \$/kWh (i.e., \$/MWh/1000).
- B = Product Payment Allocation Factor for the TOD Period being calculated.
- C = The sum of Qualified Amounts in all hours for the TOD Period being calculated in kWh.
- D = Any electric energy produced by the Generating Facility for which SCE is not obligated to pay Seller as set forth in Section 4.01(e).
- E = Any electric energy produced by the Generating Facility with respect to which Seller is entitled to CAISO Revenues as set forth in Section 1.05(c)(ii).
- F = CAISO Revenues with respect to electric energy produced by the Generating Facility for which Seller is entitled to CAISO Revenues as set forth in Section 1.05(c)(ii).

1.03 Payment During the Term.

On or before the last Business Day of the month following the applicable month for which the monthly Product Payment is being calculated, SCE shall:

- (a) Issue a Payment Invoice to Seller, including documentation supporting any SCE Penalties, Negative LMP Costs, CAISO Costs, CAISO Sanctions, *[RA Deficit Payments pursuant to Section 3.02]* {SCE Comment: FCDS projects only.}, or other applicable revenues, charges and offsets which affected the net amount in the Payment Invoice; and
- (b) Send to Seller, via wire transfer or Automated Clearing House, SCE’s payment of said net amount, less any applicable SCE Penalties, Negative LMP Costs, CAISO Costs, CAISO Sanctions, *[RA Deficit Payments pursuant to Section 3.02]* {SCE Comment: FCDS projects only.}, or other applicable charges or offsets plus, if such payment is late, ~~a Late Payment Simple Interest calculated using the Interest Rate and the number of days that such payment is late an Interest Payment.~~

The Parties acknowledge that data necessary to calculate certain payment obligations of SCE and Seller under this Agreement may not be available at the time SCE issues the Payment Invoice with respect to a particular month. Any such payment obligations,

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including related documentation supporting such obligations, shall be included in a subsequent Payment Invoice issued to Seller on or before the last Business Day of the month following the month that is the later of (i) one hundred and twenty (120) days following the last day of the calendar month to which the data relates or (ii) thirty (30) days after the relevant CAISO final settlement data is available to SCE.

1.04 Recomputation and Payment Adjustments.

- (a) If Seller or SCE determines that a calculation of Qualified Amounts, Metered Amounts, CAISO Revenues, Negative LMP Costs, CAISO Costs, CAISO Sanctions, *[RA Deficit Payments]* {SCE Comment: *FCDS projects only.*}, or SCE Penalties is incorrect as a result of inaccurate meters, the correction of data by the CAISO in OMAR, or a recalculation of CAISO Sanctions or other amounts owing between the Parties, Seller or SCE, as the case may be, shall promptly recompute the Qualified Amounts, Metered Amounts, CAISO Revenues, Negative LMP Costs, CAISO Costs, CAISO Sanctions, *[RA Deficit Payments]* {SCE Comment: *FCDS projects only.*}, SCE Penalties or other amounts for the period of the inaccuracy based upon an adjustment of inaccurate meter readings, correction of data or recalculation of CAISO Sanctions in accordance with the CAISO Tariff and any payment affected by the adjustment or correction.

(b) Adjustment of Payment.

Any amount due from SCE to Seller, or Seller to SCE, as the case may be, will be made as an adjustment to the next monthly Payment Invoice that is calculated after Seller's or SCE's recomputation using corrected measurements.

If the recomputation results in a net amount owed to SCE after applying any amounts owing to Seller as shown on the next monthly Payment Invoice, any such amount owing to SCE will at SCE's discretion be netted against amounts owed to Seller in any subsequent monthly Payment Invoice or separately invoiced to Seller, in which case Seller must pay the amount owing to SCE within five (5) Business Days after receipt of that invoice.

SCE may make payment adjustments arising from a recalculation of CAISO Revenues, CAISO Costs, Negative LMP Costs, CAISO Sanctions, *[RA Deficit Payments]* {SCE Comment: *Only applicable if Seller has chosen the option to make RA Deficit Payments.*}, SCE Penalties, or as a result of inaccurate meters after the end of the Term Year, *provided*, the Parties will be deemed to have waived any such payment adjustments which are not communicated as provided in this Section 2.04 of this Exhibit E within twelve (12) months after the end of the month in which the Payment Invoice was issued containing the error. Adjustment payments for meter inaccuracy will not bear interest.

1.05 Netting Rights.

SCE reserves the right to net amounts that would otherwise be due to Seller under this Agreement in payment of any amounts:

- (a) Owing and unpaid by Seller to SCE under this Agreement; or
- (b) Owed to SCE by Seller arising out of, or related to, any other SCE agreement, tariff, obligation or liability.

Nothing in this Section 1.05 of this Exhibit E limits SCE's rights under applicable tariffs, other agreements or Applicable Law.

2. PAYMENT ERRORS

2.01 Notice of Error in Payment.

Except as provided in Section 1.04 of this Exhibit E, if within forty-five (45) days after receipt of SCE's Payment, Seller does not give SCE Notice of an error in the payment amount, then Seller will be deemed to have waived any error in the payment.

2.02 Reimbursement for Underpayments and Overpayments.

If Seller identifies a payment error in Seller's favor and SCE agrees that the identified error occurred, SCE shall reimburse Seller for the amount of the underpayment caused by the error and apply the additional payment to the next monthly Payment Invoice that is calculated.

If Seller identifies a payment error in SCE's favor and SCE agrees that the identified error occurred, SCE may net the amount of overpayment caused by the error against amounts otherwise owed to Seller in connection with the next monthly Payment Invoice that is calculated.

2.03 Late Payments.

Late payments to Seller resulting from SCE's errors, or overpayments to Seller by SCE, will include ~~a Late Payment Simple Interest calculated using the Interest Rate and the number of days between the date due an Interest Payment~~ (or, in the case of overpayments by SCE, commencing five (5) Business Days from the date SCE provides Notice of such overpayments to Seller) and the date paid; *provided*, changes made because of settlement, audit or other information provided by the CAISO and not available to SCE when SCE rendered its original Payment Invoice will not bear interest.

2.04 Netting after Recomputation.

If the recomputation for an error results in a net amount still owing to SCE after applying the amounts owed to SCE against any amounts owed to Seller in the Payment Invoice, as described above, then SCE may, in its discretion, either net this net remaining amount owed to SCE against amounts owed to Seller in any subsequent monthly Payment Invoice to Seller or invoice Seller for such amount, in which case Seller must pay the amount owing to SCE within five (5) Business Days after receipt of such invoice.

2.05 Resolution of Disputes.

The Parties shall negotiate in good faith to resolve any disputes regarding claimed errors in a Payment. Any disputes which the Parties are unable to resolve through negotiation may be submitted for resolution through the mediation and arbitration as provided in

Article Twelve. Upon resolution of the Dispute, any required payment shall be made within ten (10) Business Days of such resolution along with ~~a Late Payment Simple~~ Interest ~~calculated using the Interest Rate~~Payment from and including the due date but excluding the date paid.

*** End of EXHIBIT E ***

EXHIBIT F-1

Product Replacement Damage Amount

*****SCE Comment: For Baseload Only.*****

In accordance with the provisions of Section 3.07, if in any Term Year an Event of Deficient Energy Deliveries occurs over the Calculation Period, then Seller shall be subject to a Product Replacement Damage Amount penalty calculated as follows:

PRODUCT REPLACEMENT DAMAGE AMOUNT =

$$(A - B - C) \times (D - E)$$

Where:

- A = Seller's Annual Energy Delivery Obligation in kWh.
- B = Sum of Qualified Amounts over the Term Year in kWh.
- C = Sum of Lost Output over the Term Year in kWh.
- D = Simple average of the Green Market Price for all Settlement Intervals in the Term Year in \$/kWh.
- E = Product Price in Section 1.05(a), in \$/kWh (i.e., \$/MWh/1000).

Notes:

1. In the above calculation, the result of "(D - E)" will not be greater than five cents (\$0.05) per kWh or less than two cents (\$0.02) per kWh.
2. In no event will SCE pay a Product Replacement Damage Amount.

***** End of EXHIBIT F *****

EXHIBIT F-2*Product Replacement Damage Amount******SCE Comment: For Intermittent Only.*****

In accordance with the provisions of Section 3.07, if at the end of any Term Year, commencing with the end of the second Term Year, an Event of Deficient Energy Deliveries occurs over the Calculation Period, then Seller shall be subject to a Product Replacement Damage Amount penalty calculated as follows:

PRODUCT REPLACEMENT DAMAGE AMOUNT =

$$[(A - B - C) \times (D - E)]$$

Where:

- A = Seller's Energy Delivery Obligation in kWh.
- B = Sum of Qualified Amounts over the Calculation Period in kWh.
- C = Sum of Lost Output over the Calculation Period in kWh.
- D = Simple average of the Green Market Price for all Settlement Intervals during the Calculation Period in \$/kWh.
- E = Product Price in Section 1.05(a), in \$/kWh (i.e., \$/MWh/1000).

Notes:

1. In the above calculation, the result of "(D - E)" will not be greater than five cents (\$0.05) per kWh or less than two cents (\$0.02) per kWh.
2. In no event will SCE pay a Product Replacement Damage Amount.

*** End of EXHIBIT F ***

EXHIBIT G*Seller's Milestone Schedule and Material Permits*

Seller's Milestone Schedule

<i>No.</i>	<i>Date</i>	<i>Milestones</i>
1		Submits interconnection application.
2		Files any land applications.
3		Files Construction Permit application(s).
4		Files a CEC Pre-Certification application.
5		Files Material Permit applications.
6		Receives a completed System Impact Study or Phase I Interconnection Study.
7		Obtains control of all lands and rights-of-way comprising the Site.
8		Receives a completed interconnection Facility Study or Phase II Interconnection Study.
9		Executes an interconnection agreement and transmission/distribution service agreement, as applicable.
10		Receives FERC acceptance of interconnection agreement and transmission agreement.
11		Receives Construction Permit.
12		Receives Material Permits.
13		Receives CEC Pre-Certification.
14		Executes an Engineering, Procurement and Construction ("EPC") contract.
15		Procures the <i>[applicable electrical generating equipment]</i> for the Generating Facility.
16		Completes financing, including construction financing.
17		Begins construction of the Generating Facility.
18		Begins startup activities.
19		Conference with SCE Contract Manager regarding startup activities <i>{SCE Comment: Conference should occur no later than 150 days prior to the Commercial Operation Date.}</i>
19		Commercial Operation Date.
20		Demonstrates the Contract <i>Capacity [and Installed DC Rating] {SCE Note: For Solar Photovoltaic}.</i>
21		Receives CEC Certification.

The contents of this document are subject to restrictions on disclosure as set forth herein.

The contents of this document are subject to restrictions on disclosure as set forth herein.

RAP ID# [Number], [Seller's Name]

Seller's Material Permits

<i>No.</i>	<i>Permits</i>
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	

*** End of EXHIBIT G ***

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT H*Milestone Progress Reporting Form*

Seller shall prepare a written report each month on its progress relative to the development construction and startup of the Generating Facility and the Milestone Schedule. The report must be sent via e-mail in the form of a single Adobe Acrobat file or facsimile to SCE's Contract Administrator, as noted in Exhibit C, on the fifth (5th) Business Day after each month.

Seller's obligation to complete a Milestone Progress Reporting Form for the preceding month and submit such report to SCE begins on the first day of the first full calendar month after the Effective Date of this Agreement and ends immediately after a Milestone Progress Reporting Form is completed and submitted for the month following the month in which Seller demonstrates the Contract Capacity [and Installed DC Rating] {SCE Note: Solar photovoltaic} in accordance with Exhibit J.

Each Milestone Progress Report must include the following items:

1. Cover page.
2. Brief Generating Facility description.
3. Site plan of the Generating Facility.
4. Description of any planned changes to the Generating Facility and Site Description in Exhibit B.
5. Bar chart schedule showing progress on achieving the Milestone Schedule.
6. PERT or GANT chart showing critical path schedule of major items and activities.
7. Summary of activities during the previous month.
8. Forecast of activities scheduled for the current month.
9. Written description about the progress relative to Seller's Milestone Schedule.
10. List of issues that could potentially impact Seller's Milestone Schedule.
11. Enumeration and schedule of any support or actions requested of SCE.
12. Progress and schedule of all agreements, contracts, Permits, approvals, technical studies, financing agreements and major equipment purchase orders showing the start dates, completion dates, and completion percentages.
13. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Generating Facility performance including performance projections for the next twelve (12) months.
14. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Generating Facility, Transmission Provider's electric system and all other interconnection utility services.

*** End of EXHIBIT H ***

The contents of this document are subject to restrictions on disclosure as set forth herein.

RAP ID# [Number], [Seller's Name]

EXHIBIT I

*Time of Delivery Periods
and
Product Payment Allocation Factors*

	Time of Delivery Periods ("TOD Periods")	
<i>TOD Period</i>	<i>Time of Day</i>	<i>Applicable Days</i>
<u>Summer</u> On-Peak	24:00 p.m. PM to 8:00 p.m. 59 PM	Weekdays except Holidays-
<u>Summer</u> Mid	4:00 PM to 8:59 PM	<u>Weekends and Holidays</u>
<u>Summer</u> Off-Peak	812:00 a.m. 2AM to 3:59 PM and 9:00 p.m. PM to 11:59 PM	Weekdays, Weekends and Holidays
Winter Mid	24:00 p.m. PM to 8:00 p.m. 59 PM	<u>Weekdays</u> , Weekends and Holidays-
Winter Off	812:00 p.m. 10AM to 7:59 AM and 9:00 p.m. PM to 11:59 PM	Weekdays, Weekends and Holidays
<u>Winter</u> Super- Off-Peak	10:00 p.m. 8:00 a.m. AM to 3:59 PM	Weekdays, Weekends and Holidays

<u>Product Payment Allocation Factors</u>		
<i>Season</i>	<i>TOD Period</i>	<i>Product Payment Allocation Factor</i>
Summer <i>Jun 1st – Sep 30th</i>	On-Peak	1. 24 <u>36</u>
	Off Mid-Peak	0.80 <u>1.24</u>
	Super Off-Peak	1. 20 <u>00</u>
Winter <i>Oct 1st – May 31st</i>	On Mid-Peak	1. 46 <u>26</u>
	Off-Peak	0.69 <u>1.23</u>
	Super-Off-Peak	1.19 <u>0.42</u>

"Holiday" is defined as New Year's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, and Christmas Day.

When any Holiday falls on a Sunday, the following Monday will be recognized as a Holiday. No change will be made for Holidays falling on Saturday.

*** End of EXHIBIT I ***

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT J-1

Procedure for Demonstration of Contract Capacity

*****SCE Comment: For Intermittent only.*****

1. Seller's Notice of Demonstration Date.

Seller shall provide at least thirty (30) days prior Notice to SCE of the date selected by Seller ("Demonstration Date"), which Demonstration Date shall be no later than thirty (30) days following the Commercial Operation Date, during which Seller intends to demonstrate the Contract Capacity. Upon SCE's request, Seller shall make reasonable efforts to reschedule the Demonstration Date.

2. Demonstration of Contract Capacity [and Installed DC Rating] {SCE Comment: For Solar Photovoltaic}.

SCE shall complete a site visit on the Demonstration Date to verify that the Generating Facility was developed in accordance with the Generating Facility and Site Description set forth in Exhibit B and to determine the Demonstrated Contract Capacity [and the Demonstrated Installed DC Rating] {SCE Comment: For Solar Photovoltaic}. In order to determine the Demonstrated Contract Capacity, SCE shall calculate the total nameplate rating for the generating equipment that is installed at the Generating Facility.

***** End of EXHIBIT J *****

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT J-2

Procedure for Demonstration of Contract Capacity

*****SCE Comment: For Baseload only.*****

1. Seller's Notice of Demonstration Hour.

Seller shall provide Notice to SCE of the date and hour selected by Seller, which hour must have occurred within thirty (30) days following the Commercial Operation Date, during which Seller claims it has demonstrated the applicable Contract Capacity ("Demonstration Hour").

2. Demonstration of Contract Capacity.

- (a) Unless SCE provides timely Notice to Seller that additional days are required to substantiate data, SCE shall, within thirty (30) days after Seller's Notice of the Demonstration Hour, retrieve interval data downloaded from the CAISO Approved Meter or Check Meter for the twelve (12) hour periods before and after the Demonstration Hour; and
- (b) SCE may, at its sole discretion, complete a site visit within thirty (30) days after SCE's receipt of Seller's Notice of the Demonstration Hour to verify that the Generating Facility was developed in accordance with the Generating Facility and Site Description set forth in Exhibit B.

***** End of EXHIBIT J *****

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT K-1*Seller's Estimate of Lost Output****** SCE Comment: Wind only. *****

Lost Output, as used in Section 3.21, shall be estimated by Seller in accordance with the procedures described in this Exhibit L.

Seller shall (i) collect the measurement data and perform the engineering calculations specified below in one (1) or more Microsoft Excel Workbooks (the "Lost Output Workbook") provided in a form and naming convention approved by SCE and (ii) electronically send the Lost Output Workbook to an address provided by SCE.

SCE shall have the right to verify all data by inspecting measurement instruments and reviewing Generating Facility Operating records.

Seller shall update the Lost Output Workbook each month and shall include the latest revision of the Lost Output Workbook with its monthly Lost Output Report.

1. Log of Lost Output Events.

The log of Lost Output Events must be created on a single, dedicated worksheet that is arranged with:

- (a) One (1) column for a unique Lost Output Event number;
- (b) One (1) column for the Term Year number;
- (c) One (1) column for the start date;
- (d) One (1) column for the start time;
- (e) One (1) column for the end date;
- (f) One (1) column for the end time;
- (g) One (1) column for the duration;
- (h) One (1) column for the cause;
- (i) One (1) column for the total of Metered Amounts during all of the Settlement Intervals of the Lost Output Event, recorded as set forth in Item 4(i) in this Exhibit K;
- (j) One (1) column for the total of the Lost Output *preliminary* results during all of the Settlement Intervals of the Lost Output Event, calculated as set forth in Item 4(j) in this Exhibit K;
- (k) One (1) column for a percentage calculated by *dividing* the preliminary results set forth in Item 1(j) of this Exhibit K by the Metered Amounts set forth in Item 1(i) of this Exhibit K;

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- (l) One (1) column for the total of the Lost Output *final* results during all of the Settlement Intervals of the Lost Output Event, calculated as set forth in Item 4(k) in this Exhibit K; and

- (m) One (1) row for each Lost Output Event.

2. Generating Facility Power Curve.

Seller shall create a Generating Facility Power Curve table on a single dedicated worksheet that is arranged with:

- (a) One (1) column for an item number;
- (b) One (1) column for the wind speeds;
- (c) One (1) column for the manufacturer's estimate of the electric energy that can be produced by a single Wind Turbine at each wind speed;
- (d) One (1) column for a power curve which estimates the electric energy that could be produced by the entire Generating Facility at each wind speed calculated by:
 - (i) *Multiplying* the Wind Turbine manufacturer's estimate of the electric energy that will be produced by a single Wind Turbine, set forth in Item 2(c);
 - (ii) *Times* the total number of Generating Facility Wind Turbines; and then
 - (iii) *Adjusting* the results for the estimated impacts the Wind Turbines have on each other and for electric losses within the Generating Facility;
- (e) One (1) column for each Term Year power curve which includes a simple average of all Metered Amount data points, set forth in Item 3(f) of this Exhibit K, at each wind speed; and
- (f) One (1) row for each one half (0.5) meter per second wind speed.

Seller shall also create a single chart which plots all of power curves set forth in Item 2(d) and Item 2(e) of this Exhibit K on the Generating Facility Power Curve worksheet.

3. Wind Speed Data Collection.

Seller shall record average Settlement Interval wind speeds, in increments of one half (0.5) meters per second, and Metered Amounts for the Settlement Interval in the Lost Output Workbook on individual Term Year worksheets.

Each Term Year worksheet must be arranged with:

- (a) One (1) column for an item number;
- (b) One (1) column for the date;
- (c) One (1) column for the beginning time;
- (d) One (1) column for the weekday;

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- (e) One (1) column for each recorded wind speed measurement;
- (f) One (1) column for each Metered Amounts quantity;
- (g) One (1) row for each Settlement Interval period.

4. Detailed Estimate of Lost Output.

Seller's detailed estimate of the Lost Output amounts during the Term shall be presented on a single worksheet organized as follows:

- (a) One column for an item number;
- (b) One (1) column for the Lost Output Event number;
- (c) One (1) column for the state date;
- (d) One (1) column for the start time;
- (e) One (1) column for the end date;
- (f) One (1) column for the end time;
- (g) One (1) column for the weekday;
- (h) One (1) column for the wind speeds;
- (i) One (1) column for Metered Amounts;
- (j) One (1) column for a *preliminary* estimate of the Metered Amounts that would have been produced by the Generating Facility, but for the Lost Output Event calculated by:
 - (i) *Multiplying* the wind speed;
 - (ii) *Times* the appropriate initial power curve as follows:
 - (1) For the first eleven (11) months of the first Term Year the appropriate initial power curve shall be the power curve set forth in Item 2(d) of this Exhibit K;
 - (2) For the first eleven (11) months of any Term Year, other than the first Term Year, the appropriate initial power curve shall be the power curve set forth in Item 2(e) of this Exhibit K for the previous Term Year;
- (k) One (1) column for a *final* estimate of the Metered Amounts that would have been produced by the Generating facility, but for the Lost Output Event calculated by:
 - (i) *Multiplying* the wind speed;
 - (ii) *Times* the *final* power curve from Item 2(e) of this Exhibit K for the Term Year being calculated;
- (l) One (1) column for the *preliminary* estimate of Lost Output calculated by:

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- (i) *Subtracting* the actual Metered Amounts set forth in Item 4(i) of this Exhibit K;
 - (ii) *From the preliminary* estimate of the Metered Amounts that would have been produced by the Generating Facility, but for the Lost Output Event, calculated in Item 4(j); and
- (m) One (1) column for the *final* estimate of Lost Output calculated by:
 - (i) *Subtracting* the actual Metered Amounts set forth in Item 4(i) of this Exhibit K;
 - (ii) *From the final* estimate of Metered Amounts that would have been produced by the Generating Facility, but for the Lost Output Event, calculated in Item 4(k) of this Exhibit K; and
- (n) One (1) row for each Settlement Interval.

5. Generating Facility Efficiency Calculation.

Seller shall calculate a Generating Facility efficiency value for each calendar month and each Term Year on a dedicated worksheet organized with three tables.

- (a) The first table must contain the monthly Metered Amount totals and must consist of:
 - (i) One (1) column for the month number;
 - (ii) One (1) column for the month name;
 - (iii) One (1) column for the year number;
 - (iv) One (1) column for the monthly Metered Amount totals for each Term Year from the wind speed data collection worksheet column set forth in Item 3(f) of this Exhibit K; and
 - (v) One (1) row for each month;
- (b) The second table must contain the monthly totals of forecasted Metered Amount and must consist of:
 - (i) One (1) column for the month number;
 - (ii) One (1) column for the month name;
 - (iii) One (1) column for the year number;
 - (iv) One (1) column for the monthly totals of forecasted Metered Amount for each Term Year from the wind speed data collection worksheet column set forth in Item 4(j) of this Exhibit K; and
 - (v) One (1) row for each month; and
- (c) The third table must contain monthly Metered Amount totals and must consist of:

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- (i) One (1) column for the month number;
- (ii) One (1) column for the month name;
- (iii) One (1) column for the year number;
- (iv) One (1) column for a monthly Generating Facility efficiency result and a Term Year Generating Facility efficiency results calculated by:
 - (1) *Dividing* the appropriate value in the first table;
 - (2) *By* the appropriate value in the second table;
- (v) One (1) row for each month; and
- (vi) One (1) row for the Term Year Generating Facility efficiency results.

6. Periodic Review of Lost Output Calculation.

At least once per Term Year, SCE shall review the variation in the Lost Output preliminary and final results to determine if other variables, including temperature, ambient pressure, humidity, precipitation or other parameters measured pursuant to Exhibit OP, should be incorporated into the Lost Output calculations.

7. Assignment of Lost Output Estimate to an Independent Consultant.

The Parties can by mutual agreement elect to have the estimate of Lost Output prepared by an independent consultant.

*** End of EXHIBIT K ***

EXHIBIT K-2a*Seller's Estimate of Lost Output****** SCE Comment: Solar Thermal only. *****

Lost Output, as used in Section 3.21, shall be estimated by Seller in accordance with the procedures described in this Exhibit K.

Seller shall (1) collect the measurement data and perform the engineering calculations specified below in one (1) or more Microsoft Excel Workbooks (the "Lost Output Workbook") provided in a form and naming convention approved by SCE and (2) electronically send the Lost Output Workbook to an address provided by SCE.

SCE shall have the right to verify all data by inspecting measurement instruments and reviewing Generating Facility Operating records.

Seller shall update the Lost Output Workbook each month and shall include the latest revision of the Lost Output Workbook with its monthly Lost Output Report.

1. Log of Lost Output Events.

The log of Lost Output Events must be created on a single, dedicated worksheet that is arranged with:

- (a) One (1) column for a unique Lost Output Event number;
- (b) One (1) column for the Term Year number;
- (c) One (1) column for the start date;
- (d) One (1) column for the start time;
- (e) One (1) column for the end date;
- (f) One (1) column for the end time;
- (g) One (1) column for the duration;
- (h) One (1) column for the cause;
- (i) One (1) column for the total of Metered Amounts during all of the Settlement Intervals of the Lost Output Event, recorded as set forth in Item 4(i) in this Exhibit K;
- (j) One (1) column for the total of the Lost Output *preliminary* results during all of the Settlement Intervals of the Lost Output Event, calculated as set forth in Item 4(m) in this Exhibit K;
- (k) One (1) column for the total of the Lost Output *final* results during all of the Settlement Intervals of the Lost Output Event, calculated as set forth in Item 4(n) in this Exhibit K; and
- (l) One (1) row for each Lost Output Event.

The contents of this document are subject to restrictions on disclosure as set forth herein.

2. Generating Facility Power Curve.

Seller shall create a Generating Facility Power Curve table on a single dedicated worksheet that is arranged with:

- (a) One (1) column for an item number;
- (b) One (1) column for the direct normal insolation;
- (c) One (1) column for the manufacturer's estimate of the electric energy that can be produced by a single Solar Generating Unit at each increment of direct normal insolation;
- (d) One (1) column for a power curve which estimates the electric energy that could be produced by the entire Generating Facility at each direct normal insolation increment calculated by:
 - (i) *Multiplying* the Solar Generating Unit manufacturer's estimate of the electric energy that will be produced by a single Solar Generating Unit, set forth in Item 2(c);
 - (ii) *Times* the total number of Generating Facility Solar Generating Unit; and then
 - (iii) *Adjusting* the results for the estimated impacts of one (1) Solar Generating Unit on another and for electric losses within the Generating Facility;
- (e) One (1) column for each Term Year power curve which includes a simple average of all Metered Amount data points, set forth in Item 3(f), at each direct normal insolation increment; and
- (f) One (1) row for each watt-hour per square meter.

Seller shall also create a single chart which plots all of power curve set forth in Item 2(d) and Item 2(e) of this Exhibit K on the Generating Facility Power Curve worksheet.

3. Direct Normal Insolation Data Collection.

Seller shall record Settlement Interval direct normal insolation, in watt-hours per square meter, and Metered Amounts in the Settlement Interval in the Lost Output Workbook on individual Term Year worksheets.

Each Term Year worksheet must be arranged with:

- (a) One (1) column for an item number;
- (b) One (1) column for the date;
- (c) One (1) column for the beginning time;
- (d) One (1) column for the weekday;
- (e) One (1) column for each recorded direct normal insolation measurement;
- (f) One (1) column for each Metered Amounts quantity;

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- (g) One (1) column for a forecast of Metered Amounts determined by:
 - (i) *Multiplying* the recorded direct normal insolation measurement set forth in Item 3(e) of this Exhibit K;
 - (ii) *Times* the appropriate value in the Generating Facility Power Curve, set forth in Item 2(e) of this Exhibit K, for the first Term Year;
- (h) One (1) column for the number of Solar Generating Units in service; and
- (i) One (1) row for each Settlement Interval period.

4. Detailed Estimate of Lost Output.

Seller's detailed estimate of the Lost Output amounts during the Term shall be presented on a single worksheet organized as follows:

- (a) One column for an item number;
- (b) One (1) column for the Lost Output Event number;
- (c) One (1) column for the state date;
- (d) One (1) column for the start time;
- (e) One (1) column for the end date;
- (f) One (1) column for the end time;
- (g) One (1) column for the weekday;
- (h) One (1) column for the direct normal insolation;
- (i) One (1) column for Metered Amounts;
- (j) One (1) column for the number of Solar Generating Units in service;
- (k) One (1) column for a *preliminary* estimate of the Metered Amounts that would have been produced by the Generating Facility, but for the Lost Output Event:
 - (i) *Multiplying* the direct normal insolation:
 - (ii) *Times* the appropriate initial power curve as follows:
 - (1) For the first eleven (11) months of the first Term Year the appropriate initial power curve must be the power curve set forth in Item 2(d) of this Exhibit K;
 - (2) For the first eleven (11) months of any Term Year, other than the first Term Year, the appropriate initial power curve must be the power curve set forth in Item 2(e) of this Exhibit K for the previous Term Year;
- (l) One (1) column for a *final* estimate of the Metered Amounts that would have been produced by the Generating facility, but for the Lost Output Event calculated by:
 - (i) *Multiplying* the direct normal insolation;

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- (ii) *Times the final power curve from Item 2(e) of this Exhibit K for the Term Year being calculated;*
 - (m) One (1) column for the *preliminary* estimate of Lost Output calculated by:
 - (i) *Subtracting the actual Metered Amount quantities set forth in Item 4(i) of this Exhibit K;*
 - (ii) *From the preliminary estimate of the Metered Amounts that would have been produced by the Generating Facility, but for the Lost Output Event, calculated in Item 4(k); and*
 - (n) One (1) column for the *final* estimate of Lost Output calculated by
 - (i) *Subtracting the actual Metered Amount quantities set forth in Item 4(i) of this Exhibit K;*
 - (ii) *From the estimate of Metered Amounts that would have been produced by the Generating Facility, but for the Lost Output Event, calculated in Item 4(l) of this Exhibit K; and*
 - (o) One (1) row for each Settlement Interval.
5. Generating Facility Performance Factor Calculation.
- Seller shall calculate a Generating Facility Efficiency value for each calendar month and each Term Year on a dedicated worksheet organized with three tables.
- (a) The first table must contain the monthly Metered Amount totals and must consist of:
 - (i) One (1) column for the month number;
 - (ii) One (1) column for the month name;
 - (iii) One (1) column for the year number;
 - (iv) One (1) column for the monthly Metered Amount totals for each Term Year from the direct normal insolation data collection worksheet column set forth in Item 3(f) of this Exhibit K; and
 - (v) One (1) row for each month;
 - (b) The second table must contain the monthly totals of forecasted Metered Amount and must consist of:
 - (i) One (1) column for the month number;
 - (ii) One (1) column for the month name;
 - (iii) One (1) column for the year number;
 - (iv) One (1) column for the monthly totals of forecasted Metered Amount for each Term Year from the direct normal insolation data collection worksheet column set forth in Item 3(g) of this Exhibit K; and

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (v) One (1) row for each month; and
 - (c) The third table must contain monthly Metered Amount performance factors and must consist of:
 - (i) One (1) column for the month number;
 - (ii) One (1) column for the month name;
 - (iii) One (1) column for the year number;
 - (iv) One (1) column for a monthly Generating Facility performance factor result and a Term Year Generating Facility performance factor results calculated by:
 - (1) *Dividing* the appropriate value in the first table;
 - (2) *By* the appropriate value in the second table;
 - (v) One (1) row for each month; and
 - (vi) One (1) row for the Term Year Generating Facility performance factor results.
6. Periodic Review of Lost Output Calculation.
- At least once per Term Year, SCE shall review the variation in the Lost Output preliminary and final results to determine if other variables, including temperature or other parameters measured pursuant to Exhibit ~~OP~~, should be incorporated into the Lost Output calculations.
7. Assignment of Lost Output Estimate to an Independent Consultant.
- The Parties can by mutual agreement elect to have the estimate of Lost Output prepared by an independent consultant.

*** End of EXHIBIT K ***

EXHIBIT K-2b*Seller's Estimate of Lost Output****** SCE Comment: Solar Photovoltaic only. *****

Lost Output, as used in Section 3.21, shall be estimated by Seller in accordance with the procedures described in this Exhibit K.

Seller shall (1) collect the measurement data and perform the engineering calculations specified below in one (1) or more Microsoft Excel Workbooks (the "Lost Output Workbook") provided in a form and naming convention approved by SCE and (2) electronically send the Lost Output Workbook to an address provided by SCE.

SCE shall have the right to verify all data by inspecting measurement instruments and reviewing Generating Facility Operating records.

Seller shall update the Lost Output Workbook each month and shall include the latest revision of the Lost Output Workbook with its monthly Lost Output Report.

1. Log of Lost Output Events.

The log of Lost Output Events must be created on a single, dedicated worksheet that is arranged with:

- (a) One (1) column for a unique Lost Output Event number;
- (b) One (1) column for the Term Year number;
- (c) One (1) column for the start date;
- (d) One (1) column for the start time;
- (e) One (1) column for the end date;
- (f) One (1) column for the end time;
- (g) One (1) column for the duration;
- (h) One (1) column for the cause;
- (i) One (1) column for the total of Metered Amounts during all of the Settlement Intervals of the Lost Output Event, recorded as set forth in Item 4(i) in this Exhibit K;
- (j) One (1) column for the total of the Lost Output *preliminary* results during all of the Settlement Intervals of the Lost Output Event, calculated as set forth in Item 4(m) in this Exhibit K;
- (k) One (1) column for the total of the Lost Output *final* results during all of the Settlement Intervals of the Lost Output Event, calculated as set forth in Item 4(n) in this Exhibit K; and
- (l) One (1) row for each Lost Output Event.

The contents of this document are subject to restrictions on disclosure as set forth herein.

2. Generating Facility Energy Yield Curve.

Seller shall create a Generating Facility Energy Yield Curve table on a single dedicated worksheet that is arranged with:

- (a) One (1) column for an item number;
- (b) One (1) column for the plane of array insolation;
- (c) One (1) column for the manufacturer's estimate of the electric energy that can be produced by a single Inverter Block Unit at each increment of plane of array insolation;
- (d) Multiple columns for an energy yield curve which estimates the electric energy that could be produced by the entire Generating Facility at each plane of array insolation increment and number of in service Inverter Block Units calculated by:
 - (i) *Multiplying* the Inverter Block Unit manufacturer's estimate of the electric energy that will be produced by a single unit, set forth in Item 2(c);
 - (ii) *Times* the total number of in service Inverter Block Units; and then
 - (iii) *Adjusting* the results for the estimated impacts of one (1) Inverter Block Unit on another and for electric losses within the Generating Facility;
- (e) Multiple columns for each Term Year energy yield curve which includes a simple average of all Metered Amount data points, set forth in Item 3(f), at each plane of array insolation increment and number of in service Inverter Block Units; and
- (f) One (1) row for each watt-hour per square meter of plane of array insolation.

Seller shall also create a single chart which plots all of energy yield curves set forth in Item 2(d) and Item 2(e) of this Exhibit K on the Generating Facility Energy Yield Curve worksheet.

3. Plane of Array Insolation Data Collection.

Seller shall record Settlement Interval plane of array insolation, in watt-hours per square meter, and Metered Amounts in the Settlement Interval in the Lost Output Workbook on individual Term Year worksheets.

Each Term Year worksheet must be arranged with:

- (a) One (1) column for an item number;
- (b) One (1) column for the date;
- (c) One (1) column for the beginning time;
- (d) One (1) column for the weekday;
- (e) One (1) column for each recorded plane of array insolation measurement;
- (f) One (1) column for each Metered Amounts quantity;

- (g) One (1) column for a forecast of Metered Amounts determined by:
 - (i) *Multiplying* the recorded plane of array insolation measurement set forth in Item 3(e) of this Exhibit K;
 - (ii) *Times* the appropriate value in the Generating Facility Energy Yield Curve, set forth in Item 2(e) of this Exhibit K, for the first Term Year;
- (h) One (1) column for the number of Inverter Blocks in service; and
- (i) One (1) row for each Settlement Interval period.

4. Detailed Estimate of Lost Output.

Seller's detailed estimate of the Lost Output amounts during the Term shall be presented on a single worksheet organized as follows:

- (a) One column for an item number;
- (b) One (1) column for the Lost Output Event number;
- (c) One (1) column for the state date;
- (d) One (1) column for the start time;
- (e) One (1) column for the end date;
- (f) One (1) column for the end time;
- (g) One (1) column for the weekday;
- (h) One (1) column for the plane of array insolation;
- (i) One (1) column for Metered Amounts;
- (j) One (1) column for the number of Inverter Block Units in service.
- (k) One (1) column for a *preliminary* estimate of the Metered Amounts that would have been produced by the Generating Facility, but for the Lost Output Event:
 - (i) *Multiplying* the plane of array insolation;
 - (ii) *Times* the appropriate initial energy yield curve as follows:
 - (1) For the first eleven (11) months of the first Term Year the appropriate initial energy yield curve must be the energy yield curve set forth in Item 2(d) of this Exhibit K;
 - (2) For the first eleven (11) months of any Term Year, other than the first Term Year, the appropriate initial energy yield curve must be the energy yield curve set forth in Item 2(e) of this Exhibit K for the previous Term Year;
- (l) One (1) column for a *final* estimate of the Metered Amounts that would have been produced by the Generating facility, but for the Lost Output Event calculated by:
 - (i) *Multiplying* the plane of array insolation;

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- (ii) *Times the final energy yield curve* from Item 2(e) of this Exhibit K for the Term Year being calculated;
- (m) One (1) column for the *preliminary* estimate of Lost Output calculated by:
 - (i) *Subtracting* the actual Metered Amount quantities set forth in Item 4(i) of this Exhibit K;
 - (ii) *From* the preliminary estimate of the Metered Amounts that would have been produced by the Generating Facility, but for the Lost Output Event, calculated in Item 4(k); and
- (n) One (1) column for the *final* estimate of Lost Output calculated by
 - (i) *Subtracting* the actual Metered Amount quantities set forth in Item 4(i) of this Exhibit K;
 - (ii) *From* the estimate of Metered Amounts that would have been produced by the Generating Facility, but for the Lost Output Event, calculated in Item 4(l) of this Exhibit K; and
- (o) One (1) row for each Settlement Interval.

5. Generating Facility Performance Factor Calculation.

Seller shall calculate a Generating Facility Performance Factor value for each calendar month and each Term Year on a dedicated worksheet organized with three tables.

- (a) The first table must contain the monthly Metered Amount totals and must consist of:
 - (i) One (1) column for the month number;
 - (ii) One (1) column for the month name;
 - (iii) One (1) column for the year number;
 - (iv) One (1) column for the monthly Metered Amount totals for each Term Year from the plane of array insolation data collection worksheet column set forth in Item 3(f) of this Exhibit K; and
 - (v) One (1) row for each month;
- (b) The second table must contain the monthly totals of forecasted Metered Amount and must consist of:
 - (i) One (1) column for the month number;
 - (ii) One (1) column for the month name;
 - (iii) One (1) column for the year number;
 - (iv) One (1) column for the monthly totals of forecasted Metered Amount for each Term Year from the plane of array insolation data collection worksheet column set forth in Item 3(g) of this Exhibit K; and

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- (v) One (1) row for each month; and
 - (c) The third table must contain monthly Performance Factors and must consist of:
 - (i) One (1) column for the month number;
 - (ii) One (1) column for the month name;
 - (iii) One (1) column for the year number;
 - (iv) One (1) column for a monthly Generating Facility Performance Factor result and a Term Year Generating Facility Performance Factor results calculated by:
 - (1) *Dividing* the appropriate value in the first table;
 - (2) *By* the appropriate value in the second table;
 - (v) One (1) row for each month; and
 - (vi) One (1) row for the Term Year Generating Facility Performance Factor results.
6. Periodic Review of Lost Output Calculation.
- At least once per Term Year, SCE shall review the variation in the Lost Output preliminary and final results to determine if other variables, including temperature, precipitation, solar altitude or azimuth angles or other parameters measured pursuant to Exhibit ~~OP~~, should be incorporated into the Lost Output calculations.
7. Assignment of Lost Output Estimate to an Independent Consultant.
- The Parties can by mutual agreement elect to have the estimate of Lost Output prepared by an independent consultant.

*** End of EXHIBIT K ***

EXHIBIT K-3

Seller's Estimate of Lost Output

***** SCE Comment: Biomass only. *****

Lost Output, as used in Section 3.21, shall be estimated by Seller in accordance with the procedures described in this Exhibit K.

Seller shall (1) collect the measurement data and perform the engineering calculations specified below in one (1) or more Microsoft Excel Workbooks (the "Lost Output Workbook") provided in a form and naming convention approved by SCE and (2) electronically send the Lost Output Workbook to an address provided by SCE.

SCE shall have the right to verify all data by inspecting measurement instruments and reviewing Generating Facility Operating records.

Seller shall update the Lost Output Workbook each month and shall include the latest revision of the Lost Output Workbook with its monthly Lost Output Report.

1. Log of Lost Output Events.

The log shall be kept on a single Worksheet in the Lost Output Workbook. Such log shall identify the date, time, duration, cause and amount by which the Generating Facility's output was curtailed for each Lost Output Event.

2. Data Collection.

Seller shall record all hourly Metered Amounts, during the Term, in the Lost Output Workbook on a single worksheet labeled "Metered Amounts".

The worksheet shall be arranged with:

- (a) One (1) column for the date;
- (b) One (1) column for the time;
- (c) One (1) column for the weekday;
- (d) One (1) column for the recorded Metered Amounts for each Term Year; and
- (e) One (1) row for each one (1) hour period during the Term Year.

Seller shall also identify, on a worksheet labeled "Lost Output Hours" and organized in a manner similar to the Metered Amounts worksheet described above, all hours when the Generating Facility's Metered Amounts were reduced due to any of the conditions or occurrences enumerated in the definition of Lost Output.

3. Generating Facility Monthly Profiles.

Seller shall create a profile of the estimated Generating Facility's Metered Amounts during an average week of each month during the Term (the "Monthly Profile").

Monthly Profiles shall include the seven (7) day period beginning at midnight on Sunday and ending at midnight on the following Saturday. They shall have a total of 168 average

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hourly Metered Amount periods (i.e., 7 days times 24 hours per day equals 168 hourly periods).

Each Monthly Profile shall be created by averaging the Metered Amounts during the same one (1) hour interval of each day of the week within the month of the current Term Year and up to the three preceding Term Years, if available.

All hours during which the Generating Facility's Metered Amounts were reduced due to any of the conditions or occurrences enumerated in the definition of Lost Output must be removed from the Monthly Profile.

If a Monthly Profile is incomplete because of missing hourly averages or if more than one half (1/2) of the one (1) hour averages are calculated using less than three (3) hourly Metered Amounts, the Monthly Profile for that month shall be based upon a comparable winter season or summer season month, as appropriate, agreed upon by the Parties for the Term Year in which the Lost Output amount is being calculated.

All Term Year Monthly Profiles, for the same calendar month, shall be calculated on a worksheet dedicated to that month.

Worksheets shall be labeled "Jan Profile," "Feb Profile," etc. Each of the twelve (12) profile worksheets shall have one (1) column for the weekday, one (1) column for the time, one (1) column for each Term Year Monthly Profile and one (1) row for each of the one hundred sixty-eight (168) hourly periods.

Seller shall also create twelve (12) line charts, one for each calendar month, on dedicated worksheets formatted with the charts sized to fit on the worksheet. Each chart shall include one data series for each Term Year. Chart sheets shall be labeled "Jan Chart," "Feb Chart," etc.

4. Seller's Estimate of Lost Output.

Lost Output shall be estimated by Seller for all Term Years on one worksheet labeled "Lost Output Events".

The worksheet shall include:

- (a) One (1) column for the date;
- (b) One (1) column for the time;
- (c) One (1) column for the weekday;
- (d) One (1) column for Seller's Lost Output estimate for each Term Year; and
- (e) One (1) row for each one (1) hour period during the Term Year.

Seller's estimate of Lost Output, for any hour during which the Generating Facility was not offline due to any of the conditions or occurrences enumerated in the definition of Lost Output shall be equal to the Metered Amount average included in the Monthly Profile for the same hour, of the same weekday, of the month in the same Term Year in which the Lost Output Event occurred less any Metered Amounts during the hour.

Seller shall summarize its Lost Output calculation results on a one (1) worksheet that has one (1) column for the month, one (1) column for each Term Year and one (1) row for each calendar month. Seller's claim for Lost Output, at the end of any Term Year, shall be equal to the sum of the monthly Lost Output amounts, for the appropriate Term Year column, on this summary worksheet. This worksheet shall be labeled "Lost Output Summary."

SCE reserves the right to recalculate any Lost Output estimated by Seller.

*** End of EXHIBIT K ***

EXHIBIT K-4

Seller's Estimate of Lost Output

*** SCE Comment: Geothermal only. ***

Lost Output, as used in Section 3.21, shall be estimated by Seller in accordance with the procedures described in this Exhibit K.

Seller shall (1) collect the measurement data and perform the engineering calculations specified below in one (1) or more Microsoft Excel Workbooks (the "Lost Output Workbook") provided in a form and naming convention approved by SCE and (2) electronically send the Lost Output Workbook to an address provided by SCE.

SCE shall have the right to verify all data by inspecting measurement instruments and reviewing Generating Facility Operating records.

Seller shall update the Lost Output Workbook each month and shall include the latest revision of the Lost Output Workbook with its monthly Lost Output Report.

1. Data Collection.

Seller shall record average hourly measurements for the following Generating Facility Operating parameters and geothermal fluid ("geofluid") working conditions.

Each parameter shall be input into a dedicated worksheet in the Lost Output Workbook which shall be arranged with one (1) column for each Term Year and one (1) row for each hour.

(a) Ambient Weather Conditions.

- (i) Wind speed in miles per hour;
- (ii) Wind direction in degrees measured clockwise from North;
- (iii) Wet bulb temperature in degrees Fahrenheit,
- (iv) Dry bulb temperature in degrees Fahrenheit; (Variable "t" below); and
- (v) Barometric pressure in inches Hga.

(b) Generating Facility Operating Data.

- (i) Metered Amounts in kWh, (Variable "A" below.);
- (ii) Sum of all geofluid mass flows at the wellhead in pounds per hour, (Variable "Qo" below);
- (iii) Average geofluid temperature at the wellhead in degrees Fahrenheit;
- (iv) Average geofluid pressure at the wellhead in psia;
- (v) Average temperature of the lowest pressure steam separator drain fluid in degrees Fahrenheit;

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- (vi) Average geofluid temperature at the re-injection point in degrees Fahrenheit;
- (vii) Average geofluid pressure at the re-injection point in psia; and
- (viii) Average steam turbine condenser pressure in psia.

2. Utilization Factors.

(a) Calculation of Hourly Utilization Factors.

Seller shall determine the efficiency level at which the Generating Facility was able to convert the geofluid thermal energy into electric energy by calculating a utilization factor ("Utilization Factor") for each operating hour on a dedicated Worksheet organized in a manner similar to that described in Item 1.

Hourly Utilization Factors shall be calculated as the ratio of the Metered Amounts to the maximum net electric energy production that the Generating Facility could possibly produce from the energy in the geofluid when using wellhead conditions and atmospheric (sink) conditions ("Theoretical Maximum Output").

Utilization Factor is further defined in ASTM E 974-00 "Standard Guide for Specifying Thermal Performance of Geothermal Systems."

UTILIZATION FACTOR ("U") in percent = A_{meter} / B

Where: A_{meter} = Metered Amounts in kWh per hour.
(Item 1(b)(i) above.)

B = Theoretical Maximum Output in kWh per hour,
as defined in Item 2b below.

(b) Calculation of Hourly Theoretical Maximum Output.

THEORETICAL MAXIMUM OUTPUT (B) in kWh = $Q_o \times E_i \times F$

Where: Q_o = Sum of all wellhead mass flow rates in pounds per hour.
(Item 1(b)(ii) above.)

E_i = Ideal Specific Work available to the process within
natural bounds of the environment in Btu per pound, as defined
below in Item 2c.

F = Conversion factor equal to 1 kWh per 3413 Btu.

(c) Calculation of Ideal Specific Work.

The theoretical maximum amount of work that the Generating Facility could perform with the energy from the geofluid ("Ideal Specific Work") shall be calculated by using the following formula:

IDEAL SPECIFIC WORK (E_i) in Btu per pound = $(h_0 - h_a) - T_a(s_0 - s_a)$

Where:

The contents of this document are subject to restrictions on disclosure as set forth herein.

h_o, h_a = Geofluid enthalpies at the inlet and sink conditions, in Btu per pound.

s_o, s_a = Geofluid entropies at inlet and sink conditions, in Btu per pound degree Rankine.

T_a = Sink (atmosphere) absolute temperature in degrees Rankine (i.e., $1^\circ \text{ Rankine} = 1^\circ \text{ Fahrenheit} + 459^\circ$ or $T_a = t + 459^\circ$).

Seller shall incorporate the mechanical engineering references for determining enthalpy and entropy values into one (1) or more Lost Output Workbook tables and shall link these tables to the appropriate algorithms using Excel's lookup functions.

3. Data Summaries.

Seller shall summarize the data for each hourly recorded measurement and the results of the hourly calculations for Utilization Factor and Ideal Specific Work, in individual summary tables.

Each summary table shall be organized with:

- (a) One (1) column for each Term Year; and
- (b) One (1) row for each calculation result.

There shall be 288 rows for each year which shall correspond to the 288 calculations associated with determining an average 24 hour day for each of the 12 calendar months.

Seller shall also create one (1) graph for each table of values. Each graph shall include one (1) data series for each Term Year.

4. Data Analysis.

Seller shall derive a table with 288 average hourly values (i.e., one set of 24 average hourly values for each of the 12 calendar months.) which correlates the relationship between the wet bulb temperature in degrees Fahrenheit and Metered Amounts in kWh per hour for each average day of each month for each Term Year.

Seller also shall graph the table values on a dedicated Excel Worksheet that has one data series for each Term Year.

5. Calculation of Lost Output When Wellhead Data are Available.

If all required Generating Facility Operating data measurements have been accurately recorded in the Lost Output Workbook, Seller's claim for Lost Output shall be equal to the total of the hourly Lost Output values calculated in accordance with the following formula.

The hourly wellhead mass flow rates shall be based upon actual recorded measurements. The hourly Ideal Specific Work values shall be calculated using the hourly measurements of geofluid enthalpies (h_o, h_a) and entropies (s_o, s_a), and the atmospheric temperature (T_a).

Each hourly Utilization Factors (U) shall be individually derived from the collected data by finding the closest historical match between the ambient temperatures and geofluid conditions.

HOURLY LOST OUTPUT

A_{Lost} in kWh per hour = $[U \times F \times Q_o \times E]$ - Metered Amounts or

$A_{\text{Lost}} = U \times F \times Q_o \times [(h_o - h_a) - T_a \times (s_o - s_a)]$ - Metered Amounts

TOTAL LOST OUTPUT (A_{Total}) in kWh = $\sum_{\text{First}}^{\text{Last}} A_{\text{Lost}}$

6. Calculation of Lost Output When Wellhead Data are *Not* Available.

If Seller believes that the geofluid collected data are unreliable because of a decline in the potential energy at the wellhead due to a Seller decision to throttle the geofluid flow rate during a period of Lost Output, Seller shall calculate its claim for Lost Output using the formula in Item 5 above and calculated amounts for hourly geofluid mass flow rates (Q_o), enthalpy (h_o) and entropy (s_o) values.

The calculated amounts for geofluid mass flow rate (Q_o), enthalpy values (h_o) and entropy values (s_o) shall be equal to the average values calculated for the one hundred forty-four (144) hour period that includes the seventy-two hour (72) period before the Lost Output period and the seventy-two (72) hour period that begins forty-eight (48) hours after the end of the Lost Output period.

7. Seller's Analysis of the Calculations Results.

Seller may submit an alternate set of calculations with its Lost Output claim along with a written description of why it believes that the results of the Lost Output calculations described above do not provide an accurate estimate of the Metered Amounts that the Generating Facility would have sold to SCE, but for the conditions listed in the definition of "Lost Output" set forth in Exhibit A.

8. SCE Review of Sellers Lost Output Calculations.

SCE shall not be obligated to accept either the Lost Output quantity estimated by Seller in accordance with the procedures outlined in this exhibit or estimated by Seller in accordance with some other method.

SCE shall have the right to review all of Seller's measured data and calculation results, to revise any or all of Seller's calculations or to develop its own calculations for estimating Seller's Lost Output.

If SCE does not accept Seller's estimate of its Lost Output, SCE shall provide Notice to Seller of its decision along with a copy of its calculations as soon as practicable.

*** End of EXHIBIT K ***

EXHIBIT L

Form of Letter of Credit

IRREVOCABLE NONTRANSFERABLE STANDBY LETTER OF CREDIT

Bank Reference Number: _____

Issuance Date:

Issuing Bank:

[insert bank name and address]

Applicant:

[insert applicant name and address]

Beneficiary:

Southern California Edison Company

2244 Walnut Grove Avenue

GO#1, Quad 2A

Rosemead, CA 91770

Attn: Manager of Risk Operations and Collateral Management

Available Amount: [insert amount and spell out]

Expiration Date: [insert date]

Ladies and Gentlemen:

_____ (the "Bank") hereby establishes this Irrevocable Nontransferable Standby Letter of Credit ("Letter of Credit") in favor of Southern California Edison Company, a California corporation (the "Beneficiary"), for the account of _____, a _____ corporation, also known as ID# _____ (the "Applicant"), for the amount stated above (the "Available Amount"), effective immediately.

This Letter of Credit shall be of no further force or effect at 5:00 p.m., California time on the expiration date stated above or, if such day is not a Business Day (as hereinafter defined), on the next Business Day (as may be extended pursuant to the terms of this Letter of Credit) (the "Expiration Date").

For the purpose hereof, "Business Day" shall mean any day other than:

The contents of this document are subject to restrictions on disclosure as set forth herein.

1. A Saturday or a Sunday,
2. A day on which banking institutions in the city of Los Angeles, California, are required or authorized by Law to remain closed, or
3. A day on which the payment system of the Federal Reserve System is not operational.

It is a condition of this Letter of Credit that the Expiration Date shall be automatically extended without amendment for one (1) year from the Expiration Date hereof or any future Expiration Date unless at least sixty (60) days prior to such Expiration Date, we send notice to you by certified mail or hand delivered courier, at the address stated below, that we elect not to extend this Letter of Credit for any such additional period.

Subject to the terms and conditions herein, funds under this Letter of Credit are available to Beneficiary by complying presentation on or before 5:00 p.m. California time, on or before the Expiration Date of the following:

1. A copy of this Letter of Credit and all amendments;
2. A copy of the Drawing Certificate in the form of Attachment "A" attached hereto and which forms an integral part hereof, duly completed and bearing the signature of an authorized representative of the Beneficiary signing as such; and
3. A copy of the Draft in the form of Attachment "B" attached hereto and which forms an integral part hereof, duly completed and bearing the signature of an authorized representative of the Beneficiary.

Drawings may also be presented by facsimile transmission ("Fax") to fax number [insert number] under telephone pre-advice to [insert number] or alternatively to [insert number]; provided that such Fax presentation is received on or before the Expiration Date on this instrument in accordance with the terms and conditions of this Letter of Credit. It is understood that any such Fax presentation shall be considered the sole operative instrument of drawing. In the event of presentation by Fax, the original documents should not also be presented.

Partial drawing of funds shall be permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance; provided, the Available Amount shall be reduced by the amount of each such drawing.

This Letter of Credit is not transferable or assignable. Any purported transfer or assignment shall be void and of no force or effect.

All correspondence and any drawings (other than those made by facsimile) hereunder are to be directed to [Bank address/contact].

RAP ID# [Number], [Seller's Name]

All notices to Beneficiary shall be in writing and are required to be sent by certified letter, overnight courier, or delivered in person to: Southern California Edison Company, Manager of Risk Operations and Collateral Management, 2244 Walnut Grove Avenue, GO1 Quad 2A, Rosemead, California 91770. Only notices to Beneficiary meeting the requirements of this paragraph shall be considered valid. Any notice to Beneficiary which is not in accordance with this paragraph shall be void and of no force or effect.

Banking charges shall be the sole responsibility of the Applicant.

This Letter of Credit sets forth in full our obligations and such obligations shall not in any way be modified, amended, amplified or limited by reference to any documents, instruments or agreements referred to herein, except only the attachment referred to herein; and any such reference shall not be deemed to incorporate by reference any document, instrument or agreement except for such attachment. Except in the case of an increase in the Available Amount or extension of the Expiration Date, this Letter of Credit may not be amended or modified without the Beneficiary's prior written consent.

The Bank engages with the Beneficiary that Beneficiary's drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to the Bank on or before the Expiration Date.

Except so far as otherwise stated, this Letter of Credit is subject to the International Standby Practices ISP98 (also known as ICC Publication No. 590), or revision currently in effect (the "ISP"). As to matters not covered by the ISP, the laws of the State of California, without regard to the principles of conflicts of laws thereunder, shall govern all matters with respect to this Letter of Credit.

AUTHORIZED SIGNATURE for Bank

By _____

Name: [print name]_____

Title: [print title]_____

The contents of this document are subject to restrictions on disclosure as set forth herein.

ATTACHMENT A

DRAWING CERTIFICATE

TO [ISSUING BANK NAME & ADDRESS]

IRREVOCABLE NONTRANSFERABLE STANDBY LETTER OF CREDIT
REFERENCE NUMBER: _____

DATE: _____

Southern California Edison Company (the "Beneficiary"), demands *[Issuing Bank Name]* (the "Bank") payment to the order of the Beneficiary the amount of U.S. \$_____ (_____ U.S. Dollars), drawn under the Letter of Credit referenced above (the "Letter of Credit"), for the following reason(s) [check applicable provision]:

[]A. An Event of Default, as defined in that certain *[insert agreement name]* between *[insert counterparty name]* or its successor (the "Counterparty") and Beneficiary, dated as of *[Date of Execution]* (as may be amended from time to time) (the "Agreement") with respect to the Counterparty has occurred and is continuing.

[]B. The Letter of Credit will expire in fewer than twenty (20) Business Days (as defined in the Agreement) from the date hereof, and the Counterparty or its successor has not provided Beneficiary alternative financial security acceptable to Beneficiary.

[]C. The Beneficiary is entitled to retain all or part of the Development Security (as defined in the Agreement).

Unless otherwise provided herein, capitalized terms which are used and not defined herein shall have the meaning given each such term in the Letter of Credit.

Authorized Signature for Beneficiary:

SOUTHERN CALIFORNIA EDISON COMPANY

By:

Name: [print name]

Title: [print title]

ATTACHMENT B

DRAFT

[INSERT DATE]

TO:

[ISSUING BANK NAME & ADDRESS]

PAY AT SIGHT TO THE ORDER OF SOUTHERN CALIFORNIA EDISON COMPANY (THE "BENEFICIARY") THE AMOUNT OF USD [INSERT AMOUNT] DRAWN UNDER [ISSUING BANK NAME] IRREVOCABLE NON-TRANSFERABLE STANDBY LETTER OF CREDIT NUMBER [INSERT NUMBER] ISSUED ON [INSERT DATE].

FUNDS PAID PURSUANT TO THE PROVISIONS OF THE LETTER OF CREDIT SHALL BE WIRE TRANSFERRED TO THE BENEFICIARY IN ACCORDANCE WITH THE FOLLOWING INSTRUCTIONS:

[INSERT WIRING INSTRUCTION]

AUTHORIZED SIGNATURE
SOUTHERN CALIFORNIA EDISON COMPANY

NAME: [PRINT NAME]

TITLE: [PRINT TITLE]

*** *End of EXHIBIT L* ***

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT M-1**FORM OF CONSENT TO COLLATERAL ASSIGNMENT AGREEMENT**

This Consent to Collateral Assignment Agreement (this “Consent”) is entered into among (i) Southern California Edison Company, a California corporation (“SCE”), (ii) [Name of Seller], a [Legal Status of Seller] (the “Project Company”), and (iii) [Name of Collateral Agent], a [Legal Status of Collateral Agent], as Collateral Agent for the secured parties under the Financing Documents referred to below (such secured parties together with their successors permitted under this Consent in such capacity, the “Secured Parties”, and, such agent, together with its successors in such capacity, the “Collateral Agent”). SCE, Project Company and Collateral Agent are hereinafter sometimes referred to individually as a “Party” and jointly as the “Parties”. Capitalized terms used but not otherwise defined in this Consent shall have the meanings ascribed to them in the Renewable Power Purchase Agreement (as defined below).

RECITALS

The Parties enter into this Consent with reference to the following facts:

- A. Project Company and SCE have entered into that certain Renewable Power Purchase Agreement, dated as of [Date] [List all amendments as contemplated by Section 3.4] (“Renewable Power Purchase Agreement”), pursuant to which Project Company will develop, construct, commission, test and operate a generating facility (the “Project”) and sell the Product to SCE, and SCE will purchase the Product from Project Company;
- B. As collateral for Project Company’s obligations under the Renewable Power Purchase Agreement, Project Company has agreed to provide to SCE certain collateral, which may include Performance Assurance and Security Interests and other collateral described in the Renewable Power Purchase Agreement (collectively, the “PPA Collateral”);
- C. Project Company has entered into that certain [Insert description of financing arrangements with Lender], dated as of [Date], among Project Company, the Lenders party thereto and the Collateral Agent (the “Financing Agreement”), pursuant to which, among other things, the Lenders have extended commitments to make loans to Project Company;
- D. As collateral security for Project Company’s obligations under the Financing Agreement and related agreements (collectively, the “Financing Documents”), Project Company has, among other things, assigned all of its right, title and interest in, to and under the Renewable Power Purchase Agreement and Project’s Company’s owners have pledged their ownership interest in Project Company (collectively, the “Assigned Interest”) to the Collateral Agent pursuant to the Financing Documents; and

The contents of this document are subject to restrictions on disclosure as set forth herein.

E. It is a requirement under the Financing Agreement and the Renewable Power Purchase Agreement that SCE and the other Parties hereto shall have executed and delivered this Consent.

AGREEMENT

In consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereto hereby agree as follows:

SECTION 1. CONSENT TO ASSIGNMENT, ETC.

1.1 Consent and Agreement.

SCE hereby acknowledges:

(a) notice of and consents to the assignment as collateral security to Collateral Agent, for the benefit of the Secured Parties, of the Assigned Interest; and

(b) the right (but not the obligation) of Collateral Agent in the exercise of its rights and remedies under the Financing Documents, to make all demands, give all notices, take all actions and exercise all rights of Project Company permitted under the Renewable Power Purchase Agreement (subject to SCE's rights and defenses under the Renewable Power Purchase Agreement and the terms of this Consent) and accepts any such exercise; provided, however, that, insofar as the Collateral Agent exercises any such rights under the Renewable Power Purchase Agreement or makes any claims with respect to payments or other obligations under the Renewable Power Purchase Agreement, the terms and conditions of the Renewable Power Purchase Agreement applicable to such exercise of rights or claims shall apply to Collateral Agent to the same extent as to Project Company.

1.2 Project Company's Acknowledgement.

Each of Project Company and Collateral Agent hereby acknowledges and agrees that SCE is authorized to act in accordance with Collateral Agent's instructions, and that SCE shall bear no liability to Project Company or Collateral Agent in connection therewith, including any liability for failing to act in accordance with Project Company's instructions.

1.3 Right to Cure.

The contents of this document are subject to restrictions on disclosure as set forth herein.

If Project Company defaults in the performance of any of its obligations under the Renewable Power Purchase Agreement, or upon the occurrence or non-occurrence of any event or condition under the Renewable Power Purchase Agreement which would immediately or with the passage of any applicable grace period or the giving of notice, or both, enable SCE to terminate or suspend its performance under the Renewable Power Purchase Agreement [or foreclose on its Junior Lien] (a “Renewable Power Purchase Agreement Default”), SCE will not terminate or suspend its performance under the Renewable Power Purchase Agreement until it first gives written notice of such Renewable Power Purchase Agreement Default to Collateral Agent and affords Collateral Agent the right to cure such Renewable Power Purchase Agreement Default within the applicable cure period under the Renewable Power Purchase Agreement, which cure period shall run concurrently with that afforded Project Company under the Renewable Power Purchase Agreement. In addition, if Collateral Agent gives SCE written notice prior to the expiration of the applicable cure period under the Renewable Power Purchase Agreement of Collateral Agent’s intention to cure such Renewable Power Purchase Agreement Default (which notice shall include a reasonable description of the time during which it anticipates to cure such Renewable Power Purchase Agreement Default) and is diligently proceeding to cure such Renewable Power Purchase Agreement Default, notwithstanding the applicable cure period under the Renewable Power Purchase Agreement, Collateral Agent shall have a period of sixty (60) days (or, if such Renewable Power Purchase Agreement Default is for failure by the Project Company to pay an amount to SCE which is due and payable under the Renewable Power Purchase Agreement other than to provide PPA Collateral, thirty (30) days, or, if such Renewable Power Purchase Agreement Default is for failure by Project Company to provide PPA Collateral, [__ (__)] Business Days) from the Collateral Agent’s receipt of the notice of such Renewable Power Purchase Agreement Default from SCE to cure such Renewable Power Purchase Agreement Default; provided, however, that (a) if possession of the Project is necessary to cure any such non-monetary Renewable Power Purchase Agreement Default and Collateral Agent has commenced foreclosure proceedings within sixty (60) days after notice of the Renewable Power Purchase Agreement Default and is diligently pursuing such foreclosure proceedings, Collateral Agent will be allowed a reasonable time, not to exceed one hundred eighty (180) days after the notice of the Renewable Power Purchase Agreement Default, to complete such proceedings and cure such Renewable Power Purchase Agreement Default, and (b) if Collateral Agent is prohibited from curing any such Renewable Power Purchase Agreement Default by any process, stay or injunction issued by any Governmental Authority or pursuant to any bankruptcy or insolvency proceeding or other similar proceeding involving Project Company, then the time periods specified herein for curing a Renewable Power Purchase Agreement Default shall be extended for the period of such prohibition, so long as Collateral Agent has diligently pursued removal of such process, stay or injunction. Collateral Agent shall provide SCE with reports concerning the status of efforts to cure a Renewable Power Purchase Agreement Default upon SCE’s reasonable request.

1.4 Substitute Owner.

The contents of this document are subject to restrictions on disclosure as set forth herein.

Subject to Section 1.7, the Parties agree that if Collateral Agent notifies (such notice, a “Financing Document Default Notice”) SCE that an event of default has occurred and is continuing under the Financing Documents (a “Financing Document Event of Default”) then, upon a judicial foreclosure sale, non-judicial foreclosure sale, deed in lieu of foreclosure or other transfer following a Financing Document Event of Default, Collateral Agent (or its designee) shall be substituted for Project Company (the “Substitute Owner”) under the Renewable Power Purchase Agreement, and, subject to Sections 1.7(b) and 1.7(c) below, SCE and Substitute Owner will recognize each other as counterparties under the Renewable Power Purchase Agreement and will continue to perform their respective obligations (including those obligations accruing to SCE and the Project Company prior to the existence of the Substitute Owner) under the Renewable Power Purchase Agreement in favor of each other in accordance with the terms thereof; provided, however, that before SCE is required to recognize the Substitute Owner, the Substitute Owner must have demonstrated to SCE’s reasonable satisfaction that the Substitute Owner has financial qualifications and operating experience [TBD] (a “Permitted Transferee”). For purposes of the foregoing, SCE shall be entitled to assume that any such purported exercise of rights by Collateral Agent that results in substitution of a Substitute Owner under the Renewable Power Purchase Agreement is in accordance with the Financing Documents without independent investigation thereof but shall have the right to require that the Collateral Agent and its designee (if applicable) provide reasonable evidence demonstrating the same.

1.5 Replacement Agreements.

Subject to Section 1.7, if the Renewable Power Purchase Agreement is terminated, rejected or otherwise invalidated as a result of any bankruptcy, insolvency, reorganization or similar proceeding affecting Project Company, its owner(s) or guarantor(s), and if Collateral Agent or its designee directly or indirectly takes possession of, or title to, the Project (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure) (“Replacement Owner”), SCE shall, and Collateral Agent shall cause Replacement Owner to, enter into a new agreement with one another for the balance of the obligations under the Renewable Power Purchase Agreement remaining to be performed having terms substantially the same as the terms of the Renewable Power Purchase Agreement with respect to the remaining Term (“Replacement Renewable Power Purchase Agreement”); provided, that before SCE is required to enter into a Replacement Renewable Power Purchase Agreement, the Replacement Owner must have demonstrated to SCE’s reasonable satisfaction that the Replacement Owner satisfies the requirements of a Permitted Transferee. For purposes of the foregoing, SCE is entitled to assume that any such purported exercise of rights by Collateral Agent that results in a Replacement Owner is in accordance with the Financing Documents without independent investigation thereof but shall have the right to require that the Collateral Agent and its designee (if applicable) provide reasonable evidence demonstrating the same. Notwithstanding the execution and delivery of a Replacement Renewable Power Purchase Agreement, to the extent SCE is, or was otherwise prior to its termination as

The contents of this document are subject to restrictions on disclosure as set forth herein.

described in this Section 1.5, entitled under the Renewable Power Purchase Agreement, SCE may suspend performance of its obligations under such Replacement Renewable Power Purchase Agreement, unless and until all Renewable Power Purchase Agreement Defaults of Project Company under the Renewable Power Purchase Agreement or Replacement Renewable Power Purchase Agreement have been cured.

1.6 Transfer.

Subject to Section 1.7, a Substitute Owner or a Replacement Owner may assign all of its interest in the Project and the Renewable Power Purchase Agreement and a Replacement Renewable Power Purchase Agreement to a natural person, corporation, trust, business trust, joint venture, joint stock company, association, company, limited liability company, partnership, Governmental Authority or other entity (a "Person") to which the Project is transferred; provided, however, that the proposed transferee shall have demonstrated to SCE's reasonable satisfaction that such proposed transferee satisfies the requirements of a Permitted Transferee.

1.7 Assumption of Obligations.

(a) Transferee.

Any transferee under Section 1.6 shall expressly assume in a writing reasonably satisfactory to SCE all of the obligations of Project Company, Substitute Owner or Replacement Owner under the Renewable Power Purchase Agreement or Replacement Renewable Power Purchase Agreement, as applicable, including posting and collateral assignment of the PPA Collateral. Upon such assignment and the cure of any outstanding Renewable Power Purchase Agreement Default, and payment of all other amounts due and payable to SCE in respect of the Renewable Power Purchase Agreement or such Replacement Renewable Power Purchase Agreement, the transferor shall be released from any further liability under the Renewable Power Purchase Agreement or Replacement Renewable Power Purchase Agreement, as applicable.

(b) Substitute Owner.

Subject to Section 1.7(c), any Substitute Owner pursuant to Section 1.4 shall be required to perform Project Company's obligations under the Renewable Power Purchase Agreement, including posting and collateral assignment of the PPA Collateral; provided, however, that the obligations of such Substitute Owner shall be no more than those of Project Company under the Renewable Power Purchase Agreement.

(c) No Liability.

SCE acknowledges and agrees that neither Collateral Agent nor any Secured Party shall have any liability or obligation under the Renewable Power Purchase Agreement as a result of this Consent (except to the extent Collateral Agent or a Secured Party is a Substitute Owner or Replacement Owner) nor shall Collateral Agent or any other Secured Party be obligated or required to (i) perform any of Project Company's obligations under the Renewable Power Purchase Agreement, except as provided in Sections 1.7(a) and 1.7(b) and to the extent Collateral Agent or a Secured Party is a Substitute Owner or Replacement Owner, or (ii) take any action to collect or enforce any claim for payment assigned under the Financing Documents. If Collateral Agent becomes a Substitute Owner pursuant to Section 1.4 or enters into a Replacement Renewable Power Purchase Agreement, Collateral Agent shall not have any personal liability to SCE under the Renewable Power Purchase Agreement or Replacement Renewable Power Purchase Agreement and the sole recourse of SCE in seeking enforcement of such obligations against Collateral Agent shall be to the aggregate interest of the Secured Parties in the Project; provided, however, that such limited recourse shall not limit SCE's right to seek equitable or injunctive relief against Collateral Agent, or SCE's rights with respect to any offset rights expressly allowed under the Renewable Power Purchase Agreement, a Replacement Renewable Power Purchase Agreement or the PPA Collateral.

1.8 Delivery of Notices.

SCE shall deliver to Collateral Agent, concurrently with the delivery thereof to Project Company, a copy of each notice, request or demand given by SCE to Project Company pursuant to the Renewable Power Purchase Agreement relating to (a) a Renewable Power Purchase Agreement Default by Project Company under the Renewable Power Purchase Agreement, (b) any claim regarding Force Majeure by SCE under the Renewable Power Purchase Agreement, (c) any notice of dispute under the Renewable Power Purchase Agreement, (d) any notice of intent to terminate or any termination notice, and (e) any matter that would require the consent of Collateral Agent pursuant to Section 1.11 or any other provision of this Consent. Collateral Agent acknowledges that delivery of such notice, request and demand shall satisfy SCE's obligation to give Collateral Agent a notice of Renewable Power Purchase Agreement Default under Section 1.3. Collateral Agent shall deliver to SCE, concurrently with delivery thereof to Project Company, a copy of each notice, request or demand given by Collateral Agent to Project Company pursuant to the Financing Documents relating to a default by Project Company under the Financing Documents.

1.9 Confirmations.

SCE will, as and when reasonably requested by Collateral Agent from time to time, confirm in writing matters relating to the Renewable Power Purchase Agreement (including the performance of same by Project Company); provided, however, that such confirmation may be limited to matters of which SCE is aware as of the time the confirmation is given and such confirmations shall be without prejudice to any rights of

The contents of this document are subject to restrictions on disclosure as set forth herein.

SCE under the Renewable Power Purchase Agreement as between SCE and Project Company.

1.10 Exclusivity of Dealings.

Except as provided in Sections 1.3, 1.4, 1.8, 1.9 and 2.1, unless and until SCE receives a Financing Document Default Notice, SCE shall deal exclusively with Project Company in connection with the performance of SCE's obligations under the Renewable Power Purchase Agreement. From and after such time as SCE receives a Financing Document Default Notice and until a Substitute Owner is substituted for Project Company pursuant to Section 1.4, a Replacement Renewable Power Purchase Agreement is entered into or the Renewable Power Purchase Agreement is transferred to a Person to whom the Project is transferred pursuant to Section 1.6, SCE shall, until Collateral Agent confirms to SCE in writing that all obligations under the Financing Documents are no longer outstanding, deal exclusively with Collateral Agent in connection with the performance of SCE's obligations under the Renewable Power Purchase Agreement, and SCE may irrevocably rely on instructions provided by Collateral Agent in accordance therewith to the exclusion of those provided by any other Person.

1.11 No Amendments.

To the extent permitted by Applicable Laws, SCE agrees that it will not, without the prior written consent of Collateral Agent (not to be unreasonably withheld, delayed or conditioned) (a) enter into any material supplement, restatement, novation, extension, amendment or modification of the Renewable Power Purchase Agreement (b) terminate or suspend its performance under the Renewable Power Purchase Agreement (except in accordance with Section 1.3) or (c) consent to or accept any termination or cancellation of the Renewable Power Purchase Agreement by Project Company.

SECTION 2. PAYMENTS UNDER THE RENEWABLE POWER PURCHASE AGREEMENT

2.1 Payments.

Unless and until SCE receives written notice to the contrary from Collateral Agent, SCE will make all payments to be made by it to Project Company under or by reason of the Renewable Power Purchase Agreement directly to Project Company. SCE, Project Company, and Collateral Agent acknowledge that SCE will be deemed to be in compliance with the payment terms of the Renewable Power Purchase Agreement to the extent that SCE makes payments in accordance with Collateral Agent's instructions.

2.2 No Offset, Etc.

All payments required to be made by SCE under the Renewable Power Purchase Agreement shall be made without any offset, recoupment, abatement, withholding, reduction or defense whatsoever, other than that expressly allowed by the terms of the Renewable Power Purchase Agreement.

SECTION 3. REPRESENTATIONS AND WARRANTIES OF SCE

SCE makes the following representations and warranties as of the date hereof in favor of Collateral Agent:

3.1 Organization.

SCE is a corporation duly organized and validly existing under the laws of the state of its incorporation, and is duly qualified, authorized to do business and in good standing in every jurisdiction in which it owns or leases real property or in which the nature of its business requires it to be so qualified, except where the failure to so qualify would not have a material adverse effect on its financial condition, its ability to own its properties or its ability to transact its business. SCE has all requisite power and authority, corporate and otherwise, to enter into and to perform its obligations hereunder and under the Renewable Power Purchase Agreement, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby.

3.2 Authorization.

The execution, delivery and performance by SCE of this Consent and the Renewable Power Purchase Agreement have been duly authorized by all necessary corporate or other action on the part of SCE and do not require any approval or consent of any holder (or any trustee for any holder) of any indebtedness or other obligation of SCE which, if not obtained, will prevent SCE from performing its obligations hereunder or under the Renewable Power Purchase Agreement except approvals or consents which have previously been obtained and which are in full force and effect.

3.3 Execution and Delivery; Binding Agreements.

Each of this Consent and the Renewable Power Purchase Agreement is in full force and effect, have been duly executed and delivered on behalf of SCE by the appropriate officers of SCE, and constitute the legal, valid and binding obligation of SCE, enforceable against SCE in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

3.4 No Default or Amendment.

Except as set forth in Schedule A attached hereto: (a) Neither SCE nor, to SCE's actual knowledge, Project Company, is in default of any of its obligations under the Renewable Power Purchase Agreement; (b) SCE and, to SCE's actual knowledge, Project Company, has complied with all conditions precedent to the effectiveness of its obligations under the Renewable Power Purchase Agreement; (c) to SCE's actual knowledge, no event or condition exists which would either immediately or with the passage of any applicable grace period or giving of notice, or both, enable either SCE or Project Company to terminate or suspend its obligations under the Renewable Power Purchase Agreement; and (d) the Renewable Power Purchase Agreement has not been amended, modified or supplemented in any manner except as set forth herein and in the recitals hereto.

3.5 No Previous Assignments.

SCE has no notice of, and has not consented to, any previous assignment by Project Company of all or any part of its rights under the Renewable Power Purchase Agreement, except as previously disclosed in writing and consented to by SCE.

SECTION 4. REPRESENTATIONS AND WARRANTIES OF PROJECT COMPANY

Project Company makes the following representations and warranties as of the date hereof in favor of the Collateral Agent and SCE:

4.1 Organization.

Project Company is a [Legal Status of Seller] duly organized and validly existing under the laws of the state of its organization, and is duly qualified, authorized to do business and in good standing in every jurisdiction in which it owns or leases real property or in which the nature of its business requires it to be so qualified, except where the failure to so qualify would not have a material adverse effect on its financial condition, its ability to own its properties or its ability to transact its business. Project Company has all requisite power and authority, corporate and otherwise, to enter into and to perform its obligations hereunder and under the Renewable Power Purchase Agreement, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby.

4.2 Authorization.

The execution, delivery and performance of this Consent by Project Company, and Project Company's assignment of its right, title and interest in, to and under the Renewable Power Purchase Agreement to the Collateral Agent pursuant to the Financing Documents, have been duly authorized by all necessary corporate or other action on the part of Project Company.

4.3 Execution and Delivery; Binding Agreement.

This Consent is in full force and effect, has been duly executed and delivered on behalf of Project Company by the appropriate officers of Project Company, and constitutes the legal, valid and binding obligation of Project Company, enforceable against Project Company in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

4.4 No Default or Amendment.

Except as set forth in Schedule B attached hereto: (a) neither Project Company nor, to Project Company's actual knowledge, SCE, is in default of any of its obligations thereunder; (b) Project Company and, to Project Company's actual knowledge, SCE, has complied with all conditions precedent to the effectiveness of its obligations under the Renewable Power Purchase Agreement; (c) to Project Company's actual knowledge, no event or condition exists which would either immediately or with the passage of any applicable grace period or giving of notice, or both, enable either SCE or Project Company to terminate or suspend its obligations under the Renewable Power Purchase Agreement; and (d) the Renewable Power Purchase Agreement has not been amended, modified or supplemented in any manner except as set forth herein and in the recitals hereto.

4.5 No Previous Assignments.

Project Company has not previously assigned all or any part of its rights under the Renewable Power Purchase Agreement.

SECTION 5. REPRESENTATIONS AND WARRANTIES OF COLLATERAL AGENT

Collateral Agent makes the following representations and warranties as of the date hereof in favor of SCE and Project Company:

5.1 Authorization.

The execution, delivery and performance of this Consent by Collateral Agent have been duly authorized by all necessary corporate or other action on the part of Collateral Agent and Secured Parties.

5.2 Execution and Delivery; Binding Agreement.

The contents of this document are subject to restrictions on disclosure as set forth herein.

This Consent is in full force and effect, has been duly executed and delivered on behalf of Collateral Agent by the appropriate officers of Collateral Agent, and constitutes the legal, valid and binding obligation of Collateral Agent as Collateral Agent for the Secured Parties, enforceable against Collateral Agent (and the Secured Parties to the extent applicable) in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

SECTION 6. MISCELLANEOUS

6.1 Notices.

All notices and other communications hereunder shall be in writing, shall be deemed given upon receipt thereof by the Party or Parties to whom such notice is addressed, shall refer on their face to the Renewable Power Purchase Agreement (although failure to so refer shall not render any such notice or communication ineffective), shall be sent by first class mail, by personal delivery or by a nationally recognized courier service, and shall be directed (a) if to SCE or Project Company, in accordance with [Notice Section of the Renewable Power Purchase Agreement] of the Renewable Power Purchase Agreement, (b) if to Collateral Agent, to [Collateral Agent Name], [Collateral Agent Address], Attn: [Collateral Agent Contact Information], Telephone: [], Fax: [], and (c) to such other address or addressee as any such Party may designate by notice given pursuant hereto.

6.2 Governing Law; Submission to Jurisdiction.

(a) THIS CONSENT SHALL BE CONSTRUED IN ACCORDANCE WITH, AND THIS CONSENT AND ALL MATTERS ARISING OUT OF THIS CONSENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE GOVERNED BY, THE LAW OF THE STATE OF CALIFORNIA WITHOUT REGARD TO ANY CONFLICTS OF LAWS PROVISIONS THEREOF THAT WOULD RESULT IN THE APPLICATION OF THE LAW OF ANOTHER JURISDICTION. [This Section will be modified, if necessary, to match the Governing Law Section of the Renewable Power Purchase Agreement.]

(b) All disputes, claims or controversies arising out of, relating to, concerning or pertaining to the terms of this Consent shall be governed by the dispute resolution provisions of the Renewable Power Purchase Agreement. Subject to the foregoing, any legal action or proceeding with respect to this Consent and any action for enforcement of any judgment in respect thereof may be brought in the courts of the State of California or

of the United States of America for the Central District of California, and, by execution and delivery of this Consent, each Party hereby accepts for itself and in respect of its property, generally and unconditionally, the non-exclusive jurisdiction of the aforesaid courts and appellate courts from any appeal thereof. Each Party further irrevocably consents to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to its notice address provided pursuant to Section 6.1 hereof. Each Party hereby irrevocably waives any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions or proceedings arising out of or in connection with this Consent brought in the courts referred to above and hereby further irrevocably waives and agrees not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum. Nothing herein shall affect the right of any Party to serve process in any other manner permitted by law.

6.3 Headings Descriptive.

The headings of the several sections and subsections of this Consent are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Consent.

6.4 Severability.

In case any provision in or obligation under this Consent shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

6.5 Amendment, Waiver.

Neither this Consent nor any of the terms hereof may (a) be terminated, amended, supplemented or modified, except by an instrument in writing signed by SCE, Project Company and Collateral Agent or (b) waived, except by an instrument in writing signed by the waiving Party.

6.6 Termination.

Each Party's obligations hereunder are absolute and unconditional, and no Party has any right, and shall have no right, to terminate this Consent or to be released, relieved or discharged from any obligation or liability hereunder until SCE has been notified by Collateral Agent that all of the obligations under the Financing Documents shall have been satisfied in full (other than contingent indemnification obligations) or, with respect to the Renewable Power Purchase Agreement or any Replacement Renewable Power

Purchase Agreement, its obligations under such Renewable Power Purchase Agreement or Replacement Renewable Power Purchase Agreement have been fully performed.

6.7 Successors and Assigns.

This Consent shall be binding upon each Party and its successors and assigns permitted under and in accordance with this Consent, and shall inure to the benefit of the other Parties and their respective successors and assignee permitted under and in accordance with this Consent. Each reference to a Person herein shall include such Person's successors and assigns permitted under and in accordance with this Consent.

6.8 Further Assurances.

SCE hereby agrees to execute and deliver all such instruments and take all such action as may be necessary to effectuate fully the purposes of this Consent.

6.9 Waiver of Trial by Jury.

TO THE EXTENT PERMITTED BY APPLICABLE LAWS, THE PARTIES HEREBY IRREVOCABLY WAIVE ALL RIGHT OF TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN CONNECTION WITH THIS CONSENT OR ANY MATTER ARISING HEREUNDER. EACH PARTY FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

6.10 Entire Agreement.

This Consent and any agreement, document or instrument attached hereto or referred to herein integrate all the terms and conditions mentioned herein or incidental hereto and supersede all oral negotiations and prior writings in respect to the subject matter hereof. In the event of any conflict between the terms, conditions and provisions of this Consent and any such agreement, document or instrument, the terms, conditions and provisions of this Consent shall prevail.

6.11 Effective Date.

This Consent shall be deemed effective as of the date upon which the last Party executes this Consent.

6.12 Counterparts; Electronic Signatures.

The contents of this document are subject to restrictions on disclosure as set forth herein.

This Consent may be executed in one or more counterparts, each of which will be deemed to be an original of this Consent and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Consent and of signature pages by facsimile transmission, Portable Document Format (i.e., PDF), or by other electronic means shall constitute effective execution and delivery of this Consent as to the Parties and may be used in lieu of the original Consent for all purposes.

[Remainder of Page Left Intentionally Blank.]

RAP ID# [Number], [Seller's Name]

IN WITNESS WHEREOF, the Parties hereto have caused this Consent to be duly executed and delivered by their duly authorized officers on the dates indicated below their respective signatures.

<u>[NAME OF PROJECT COMPANY],</u> <u>[Legal Status of Project Company].</u>		<u>SOUTHERN CALIFORNIA EDISON COMPANY,</u> <u>a California corporation.</u>
<u>By:</u> <hr/> <u>[Name]</u> <u>[Title]</u> <u>Date:</u> _____		<u>By:</u> <hr/> <u>[Name]</u> <u>[Title]</u> <u>Date:</u> _____
<u>[NAME OF COLLATERAL AGENT],</u> <u>[Legal Status of Collateral Agent].</u> <u>By:</u> <hr/> <u>[Name]</u> <u>[Title]</u> <u>Date:</u> _____		

The contents of this document are subject to restrictions on disclosure as set forth herein.

SCHEDULE A

[Describe any disclosures relevant to representations and warranties made in Section 3.4]

EXHIBIT N-1

SCE Penalties and CAISO Sanctions

***** SCE Comment: Intermittent only*****

Seller is liable for SCE Penalties and CAISO Sanctions under the circumstances described in this Exhibit **MN**.

1. **Determining Seller's Liability for SCE Penalties.**

If in any hour of any month in the Delivery Term Seller fails to comply with its Forecasting requirements under Exhibit D of this Agreement with respect to Seller's Forecast of available capacity only, and the sum of Energy Deviations for each of the Settlement Intervals in that hour exceed the Performance Tolerance Band described in Paragraph 2 of this Exhibit, then Seller is liable for an SCE Penalty equal to one hundred fifty percent (150%) of the Product Price in Section 1.05(a) for each MWh of Energy Deviation, or any portion thereof, in that hour.

2. **Performance Tolerance Band.**

The "Performance Tolerance Band," in kWh, is equal to:

- (a) Three percent (3%) times
- (b) Contract Capacity times
- (c) One (1) hour, i.e., the interval of time for monitoring Forecasting requirements.

3. **Seller's Liability for CAISO Sanctions.**

Seller must reimburse SCE for all CAISO Sanctions incurred by SCE as a result of Seller's failure to adhere to its obligations under the CAISO Tariff or any CAISO directive, as such directive may be communicated to Seller by SCE, or as set forth in Sections 3.12(g) and 4.01(e).

4. **Billing and Documentation of CAISO Sanctions.**

- (a) The CAISO Sanctions will be available for billing approximately one hundred twenty (120) days following the last day of the calendar month in which the event giving rise to the sanction occurs, or thirty (30) days after the CAISO final settlement data is available to SCE, whichever is sooner.
- (b) SCE shall provide to Seller the applicable back-up data used for validating CAISO Sanctions.

***** End of EXHIBIT **MN** *****

EXHIBIT MN-2

CAISO Costs and CAISO Sanctions

***** SCE Comment: Baseload only*****

Seller is liable for CAISO Costs and CAISO Sanctions under the circumstances described in this Exhibit **MN**.

1. **Determining Applicability of CAISO Costs.**

Seller shall be responsible for all CAISO Costs (a) for all Settlement Intervals where Energy Deviations exceed the Performance Tolerance Band and (b) as set forth in Section 1.05(c)(ii).

2. **Performance Tolerance Band.**

The "Performance Tolerance Band" will equal the quantity in any Settlement Interval, in kWh, that is the product of:

- (a) Three percent (3%) times
- (b) Contract Capacity divided by
- (c) The number of Settlement Intervals in the hour.

3. **Seller's Liability for CAISO Sanctions.**

Seller will be liable to reimburse SCE for all CAISO Sanctions incurred by SCE as a result of Seller's failure to adhere to its obligations under the CAISO Tariff or any CAISO directive, as such directive may be communicated to Seller by SCE, or as set forth in Sections 3.12.(g) and 4.01(e).

4. **Billing and Documentation of CAISO Costs and CAISO Sanctions.**

- (a) The CAISO Costs and CAISO Sanctions will be available for billing approximately one hundred twenty (120) days following the last day of a calendar month in which the event giving rise to the sanction occurs, or thirty (30) days after the CAISO final settlement data is available to SCE, whichever is sooner.
- (b) SCE shall provide to Seller the applicable back-up data used for validating CAISO Costs and CAISO Sanctions.

***** End of EXHIBIT MN *****

EXHIBIT NO

Actual Availability Report

Pursuant to Section 3.22, Seller shall prepare an Actual Availability Report in accordance with the procedures described in this Exhibit **NO**.

1. Availability Workbook.

Seller shall:

- (a) Collect the measurement data, listed in Item 2 below, in one (1) or more Microsoft Excel Workbooks (the "Availability Workbook") provided in a form and naming convention approved by SCE; and
- (b) Electronically send the Availability Workbook to an address provided by SCE.

The Actual Availability Report must reflect the Actual Available Capacity as measured by Seller's SCADA equipment.

2. Log of Availability.

The Availability Workbook must be created on a single, dedicated worksheet and shall be in the form of Attachment 1 to this Exhibit **NO**.

The data presented in the Availability Workbook must not reflect any electric energy losses between the CAISO Approved Meter or Check Meter and the Delivery Point.

ATTACHMENT 1
Actual Availability Report

*** End of EXHIBIT ~~NO~~ ***

Actual Availability Report

EXHIBIT ~~OP~~-1*Meteorological Station Specifications****** SCE Comment: Wind only. *****

Pursuant to Section 3.08(f), Seller shall install and maintain a minimum of the greater of (i) one (1) stand-alone meteorological equipment station for each fifty (50) MWs (or portion thereof) of nameplate capacity installed at the Generating Facility or (ii) one (1) stand-alone meteorological equipment station for each [number] miles {SCE Comment: To be determined based on site plan} (or portion thereof) of the Site. Each station shall be equipped with instruments and equipment that meet or exceed those specifications set forth in the CAISO's PIRP/EIRP protocol and are compatible with the requirements of SCE. SCE and Seller acknowledge that SCE may update this Exhibit ~~OP~~ from time to time in order to accommodate industry standards, the CAISO PIRP/EIRP protocol and the needs of SCE.

SCE and Seller shall develop the technical specifications for meteorological stations, which will meet these basic requirements.

Seller shall maintain the meteorological station in accordance with Prudent Electrical Practices. Seller shall perform yearly calibrations of all instruments.

1. Equipment Stations.

- (a) The equipment stations shall be comprised of the following:
 - (i) Two (2) heated wind sensors;
 - (ii) Two (2) air temperature sensors; and
 - (iii) One (1) barometric pressure sensor (with DCP sensor).
- (b) The wind sensors and air temperature sensors shall be set at two (2) height locations from ground level:
 - (i) One wind sensor and one temperature sensor shall be set at the height that represents the lowest blade tip when positioned at a ninety degree (90°) angle with the ground; and
 - (ii) One wind sensor and one temperature sensor shall be set at the height that represents the hub center of the turbines.

2. Attributes of Equipment Station Locations.

The equipment station location(s) should be unencumbered by tower shadow or other equipment. If an equipment station tower is being placed on the Site, the tower is to be placed in front of generating turbines on the upwind side of the wind park, as determined by the wind rose. The second station is best placed at the rear of the park as determined by the wind rose.

3. Communication.

Seller shall communicate meteorological data to SCE via a system consistent with SCE's employed methods at the time of installation.

4. Equipment Requirements.

SCE currently requires equipment with quality levels and compatibility and functional specifications that meet or exceed those of the equipment set forth below in this Item 4. Any equipment different from that listed below must have the approval of SCE before installation at the Site.

(a) MAWS301 AWS System.

- (i) MAWS301 Basic Assembly for MAWS301 Automatic Weather Station, including following modules and functions:
 - QML201 AWS Logger with 1.7 MB Flash memory for data logging
 - QBR101B Battery regulator
 - ENC542PLM Equipment enclosure with backup battery mounting accessories and internal wiring
 - Bottom plate with signal connectors for sensors and peripheral equipment
 - MAWS LIZARD Set-up software
 - MAWS Terminal software
- (ii) ENC542SHIELD Radiation Shield for MAWS301 enclosure
- (iii) QMZ101 Terminal/maintenance cable for MAWS
- (iv) QMBATT12 Back-up battery - 12 Ah/12V, installed in MAWS enclosure, includes wiring

(b) Sensors.

- (i) QMT110 or HMT 330 Series Air temperature sensor with 10 m cable and connector
 - DTR502P22 or DRT503 Radiation shield for QMT110 (air temp sensor) including mounting accessories to a pole/mast (60-100 mm)
- (ii) QMT103 or HMP Air temperature sensor with 5-m cable and connector
 - 212417 Extension cables, 25m, shielded, 5-pin F-M connector for QMT103 sensor
 - DTR502P22 or DRT503 Radiation shield for QMT103 (air temp sensor) including mounting accessories to a pole/mast (60-100 mm)

- (iii) PMT16A Barometric pressure sensor installed within the MAWS301 enclosure
- (iv) W5425, WMT52, or WMT700 Series Heated Ultrasonic Wind Sensor with RS485 & power output cable, sensor mounting on 60 mm diameter pole/mast and 36 VDC power supply
- (c) Powering.
Mains (AC) power supply, installed in enclosure (ENC542PLM), including wiring and surge arrestors for 115 VAC
- (d) Communication.
 - (i) DSI485ASET48-M3 Isolated RS-485 module - 2 wire connection, including extra surge arrestors for both lines, installed in MAWS enclosure communications from logger to W5425, WMT52, or WMT700 Series sensors
 - (ii) DME421-M3 Ethernet interface serial port to VSAT transmitter. Module mounted within MAWS enclosure (if needed)
 - (iii) VSAT Hardware, VSAT transmitter, cables with connectors, testing of each site, antenna positioners, mounting hardware. Installation at each site should include program fee for VSAT module

The satellite communication requires an unencumbered south-by-southwest view of the sky for antenna placement. Weather station data will be transmitted to SCE consistent with the industry standard practices at the time of installation.
- (e) Install Accessories.
 - (i) APPK-60SET Mast mounting for MAWS enclosure on a 50-60 mm diameter pole/mast/tower
 - (ii) WSP Surge Arrestor for QMT103/110 Temp sensor lines (4-wire)
 - (iii) #010411 Shielded RS485 cabling from MAWS301 to W5425, WMT52, or WMT700 Series sensor
 - (iv) WSP Surge Arrestor for RS485 lines, wind sensors at 10m
 - (v) WS425STDH-SPEC-30m Shielded RS485 cabling from MAWS301 to W5425, WMT52, or WMT700 Series sensors - 30m cables
 - (vi) WSP Surge Arrestor for RS485 lines, wind sensors at 30m

*** End of EXHIBIT **OP*****

EXHIBIT ~~OP~~-2a*Meteorological Station Specifications****** SCE Comment: Solar Thermal only. *****

Pursuant to Section 3.08(f), Seller shall install and maintain a minimum of one (1) stand-alone meteorological equipment station for each one (1) square mile (or portion thereof) of the Site. Each station shall be equipped with instruments and equipment that meet or exceed those specifications set forth in the CAISO's PIRP/EIRP protocol and are compatible with the requirements of SCE. SCE and Seller acknowledge that SCE may update this Exhibit ~~OP~~ from time to time in order to accommodate industry standards, the CAISO PIRP/EIRP protocol and the needs of SCE.

SCE and Seller shall develop the technical specifications for meteorological stations, which will meet these basic requirements.

Seller shall maintain the meteorological station in accordance with Prudent Electrical Practices and equipment specifications. Seller shall perform yearly calibrations of all instruments. In addition, any solar irradiance sensor must be cleaned weekly or after storm events, following manufacturers recommended cleaning procedures.

1. Equipment Stations.

(a) The equipment stations shall be comprised of the following:

- (i) One (1) heated wind sensor;
- (ii) One (1) air temperature sensor;
- (iii) One (1) relative humidity sensor;
- (iv) One (1) barometric pressure sensor (with DCP sensor);
- (v) One (1) direct normal irradiance sensor operated to track the sun;
- (vi) One (1) total global radiation sensor horizontal to the ground plane (only 1 such sensor shall be required under this Agreement); and
- (vii) One (1) diffuse radiation sensor (only 1 such sensor shall be required under this Agreement).

(b) In addition, Seller shall report:

- (i) Solar altitude angle;
- (ii) Solar azimuth angle; and
- (iii) Precipitation.

(c) All sensors shall be set at a height location representing the height from ground level of the solar collection point, for example, two (2) meters above ground level.

3. Attributes of Equipment Station Locations.

The contents of this document are subject to restrictions on disclosure as set forth herein.

The equipment station location(s) should be unencumbered by any shadow or equipment. The equipment station tower is to be placed in front of the solar collectors on the southern side of the Site. In addition, the station's satellite communication transmitter requires an unencumbered south-by-south west view of the sky for antenna placement.

4. Communication.

Seller shall communicate meteorological data to SCE via a system consistent with SCE's employed methods at the time of installation. The equipment installed will need to be approved by SCE.

The satellite communication requires an unencumbered south-by-southwest view of the sky for antenna placement. Weather station data will be transmitted to SCE consistent with the industry standard practices at the time of installation.

5. Equipment Requirements.

SCE currently requires equipment with quality levels, compatibility and functional specifications that meet or exceed those of the equipment set forth below in this Item 5. Any equipment different from that listed below must have the approval of SCE before installation at the Site.

(a) MAWS301 AWS System.

- (i) MAWS301 Basic Assembly for MAWS301 Automatic Weather Station, including following modules and functions:
 - QML201 AWS Logger with 1.7 MB Flash memory for data logging
 - QBR101B Battery regulator
 - ENC542PLM Equipment enclosure with backup battery mounting accessories and internal wiring
 - Bottom plate with signal connectors for sensors and peripheral equipment
 - MAWS LIZARD Set-up software
 - MAWS Terminal software
- (ii) ENC542SHIELD Radiation Shield for MAWS301 enclosure
- (iii) QMZ101 Terminal/maintenance cable for MAWS
- (iv) QMBATT12 Back-up battery - 12 Ah/12V, installed in MAWS enclosure, includes wiring

(b) Sensors.

- (i) QMT110 Air temperature sensor with 10 m cable and connector
 - DTR502P22 Radiation shield for QMT110 (air temp sensor) including mounting accessories to a pole/mast (60-100 mm)

The contents of this document are subject to restrictions on disclosure as set forth herein.

- (ii) QMT103 Air temperature sensor with 5-m cable and connector
 - 212417 Extension cables, 25m, shielded, 5-pin F-M connector for QMT103 sensor
 - DTR502P22 Radiation shield for QMT103 (air temp sensor) including mounting accessories to a pole/mast (60-100 mm)
- (iii) PMT16A Barometric pressure sensor installed within the MAWS301 enclosure
- (iv) M301-WS425STDH Heated Ultrasonic Wind Sensor with RS485 & power output cable, sensor mounting on 60 mm diameter pole/mast and 36 VDC power supply
- (v) HMT 100 humidity and temperature sensor
- (vi) Eppley Labs Model NIP pyroheliometer with solar tracker
- (c) Powering.

MCP150-M3-115 Mains (AC) power supply, installed in enclosure (ENC542PLM), including wiring and surge arrestors for 115 VAC
- (d) Communication.
 - (i) DSI485ASET48-M3 Isolated RS-485 module - 2 wire connection, including extra surge arrestors for both lines, installed in MAWS enclosure communications from logger to WS425 sensors
 - (ii) DME421-M3 Ethernet interface serial port to VSAT transmitter. Module mounted within MAWS enclosure
 - (iii) VSAT Hardware, VSAT transmitter, cables with connectors, testing of each site, antenna positioners, mounting hardware. Installation at each site should include program fee for VSAT module
- (e) Install Accessories.
 - (i) APPK-60SET Mast mounting for MAWS enclosure on a 50-60 mm diameter pole/mast/tower
 - (ii) QSA124PT Surge Arrestor for QMT103/110 Temp sensor lines (4-wire)
 - (iii) #010411 Shielded RS485 cabling from MAWS301 to WS425STDH - 10m cables
 - (iv) QSA224DC Surge Arrestor for RS485 lines, wind sensors at 10m

*** End of EXHIBIT OP***

The contents of this document are subject to restrictions on disclosure as set forth herein.

EXHIBIT ~~OP~~-2b*Meteorological Station Specifications****** SCE Comment: Solar Photovoltaic only. *****

Pursuant to Section 3.08(f), Seller shall install and maintain a minimum of one (1) stand-alone meteorological equipment station for each one (1) square mile (or portion thereof) of the Site. Each station shall be equipped with instruments and equipment that meet or exceed those specifications set forth in the CAISO's PIRP/EIRP protocol and are compatible with the requirements of SCE. SCE and Seller acknowledge that SCE may update this Exhibit ~~OP~~ from time to time in order to accommodate industry standards, the CAISO PIRP/EIRP protocol and the needs of SCE.

SCE and Seller shall develop the technical specifications for meteorological stations, which will meet these basic requirements.

Seller shall maintain the meteorological station in accordance with Prudent Electrical Practices and equipment specifications. Seller shall perform yearly calibrations of all instruments. In addition, any solar irradiance sensor must be cleaned weekly or after storm events, following manufacturers recommended cleaning procedures.

1. Equipment Stations.

(a) The equipment stations shall be comprised of the following:

- (i) One (1) heated wind sensor;
- (ii) One (1) air temperature sensor;
- (iii) One (1) relative humidity sensor;
- (iv) One (1) barometric pressure sensor (with DCP sensor);

- (v) One (1) total global irradiation sensor for each collector plane orientation in the Site with the sensor(s) oriented at the same inclination and aspect as the collector plane(s);

{SCE Note: For fixed tilt Solar projects}

A minimum of one thermopile pyranometer for each inverter block mounted in a representative location on an associated tracker. Such thermopile pyranometers shall include either:

- (1) One (1) secondary standard thermopile pyranometer mounted on a tracker associated with each inverter block, or
- (2) For each equipment station, at least one (1) secondary standard thermopile pyranometer mounted on a tracker associated with an inverter block near the equipment station, and for the thermopile pyranometers associated with the remaining balance of inverter blocks, first class and second class thermopile pyranometers may

be installed only if they are calibrated and adjusted in accordance with Section 3.08(f) of the Agreement;
{SCE Note: For tracking Solar projects}

- (vi) One (1) total global radiation sensor horizontal to the ground plane (only 1 such sensor shall be required under this Agreement); and
 - (vii) One (1) diffuse radiation sensor (only 1 such sensor shall be required under this Agreement).
 - (b) In addition, Seller shall report:
 - (i) Solar altitude angle;
 - (ii) Solar azimuth angle;
 - (iii) Precipitation;
 - (iv) Individual tracking assembly angle set points; and
 - (v) The actual tracking assembly angles.
 - (c) All sensors shall be set at a height location representing the height from ground level of the solar collection point, for example, two (2) meters above ground level.
3. Attributes of Equipment Station Locations.
- The equipment station location(s) should be unencumbered by any shadow or equipment. The equipment station tower is to be placed in front of the solar collectors on the southern side of the Site. In addition, the station's satellite communication transmitter requires an unencumbered south-by-south west view of the sky for antenna placement.
4. Communication.
- Seller shall communicate meteorological data to SCE via a system consistent with SCE's employed methods at the time of installation. The equipment installed will need to be approved by SCE.
- The satellite communication requires an unencumbered south-by-southwest view of the sky for antenna placement. Weather station data will be transmitted to SCE consistent with the industry standard practices at the time of installation.
5. Equipment Requirements.
- SCE currently requires equipment with quality levels, compatibility and functional specifications that meet or exceed those of the equipment set forth below in this Item 5. Any equipment different from that listed below must have the approval of SCE before installation at the Site.
- (a) MAWS301 AWS System.

- (i) MAWS301 Basic Assembly for MAWS301 Automatic Weather Station, including following modules and functions:
 - QML201 AWS Logger with 1.7 MB Flash memory for data logging
 - QBR101B Battery regulator
 - ENC542PLM Equipment enclosure with backup battery mounting accessories and internal wiring
 - Bottom plate with signal connectors for sensors and peripheral equipment
 - MAWS LIZARD Set-up software
 - MAWS Terminal software
- (ii) ENC542SHIELD Radiation Shield for MAWS301 enclosure
- (iii) QMZ101 Terminal/maintenance cable for MAWS
- (iv) QMBATT12 Back-up battery - 12 Ah/12V, installed in MAWS enclosure, includes wiring
- (b) Sensors.
 - (i) QMT110 Air temperature sensor with 10 m cable and connector
 - DTR502P22 Radiation shield for QMT110 (air temp sensor) including mounting accessories to a pole/mast (60-100 mm)
 - (ii) QMT103 Air temperature sensor with 5-m cable and connector
 - 212417 Extension cables, 25m, shielded, 5-pin F-M connector for QMT103 sensor
 - DTR502P22 Radiation shield for QMT103 (air temp sensor) including mounting accessories to a pole/mast (60-100 mm)
 - (iii) PMT16A Barometric pressure sensor installed within the MAWS301 enclosure
 - (iv) M301-WS425STDH Heated Ultrasonic Wind Sensor with RS485 & power output cable, sensor mounting on 60 mm diameter pole/mast and 36 VDC power supply
 - (v) HMT 100 humidity and temperature sensor
 - (vi) Model RSR-2, Rotating Shadowband Radiometer System from Irradiance Inc. for site global horizontal and diffuse irradiance
 - (vii) Kipp and Zonen Model CMP-11 or equivalent secondary standard thermopile pyranometer mounted in the plane of the solar array for each *[solar array orientation]* {SCE Note: For fixed tilt Solar projects}

[inverter block, except as specified in Item 1(a)(vi)(2)] {SCE Note: For tracking Solar projects}

(c) Powering.

MCP150-M3-115 Mains (AC) power supply, installed in enclosure (ENC542PLM), including wiring and surge arrestors for 115 VAC

(d) Communication.

- (i) DSI485ASET48-M3 Isolated RS-485 module - 2 wire connection, including extra surge arrestors for both lines, installed in MAWS enclosure communications from logger to WS425 sensors
- (ii) DME421-M3 Ethernet interface serial port to VSAT transmitter. Module mounted within MAWS enclosure
- (iii) VSAT Hardware, VSAT transmitter, cables with connectors, testing of each site, antenna positioners, mounting hardware. Installation at each site should include program fee for VSAT module

(e) Install Accessories.

- (i) APPK-60SET Mast mounting for MAWS enclosure on a 50-60 mm diameter pole/mast/tower
- (ii) QSA124PT Surge Arrestor for QMT103/110 Temp sensor lines (4-wire)
- (iii) #010411 Shielded RS485 cabling from MAWS301 to WS425STDH - 10m cables
- (iv) QSA224DC Surge Arrestor for RS485 lines, wind sensors at 10m

*** End of EXHIBIT *OP* ***

PUBLIC APPENDIX G.1

SCE's Least-Cost Best-Fit Methodology

Southern California Edison Company's ("SCE") Least-Cost Best-Fit Methodology

I. Introduction

A. Note relevant language in statute and CPUC decisions approving LCBF process and requiring LCBF Reports

Under the direction of the California Public Utilities Commission (the "Commission" or "CPUC"), SCE conducts solicitations for the purpose of procuring power from eligible renewable energy resources to meet California's Renewables Portfolio Standard ("RPS"). SCE evaluates and ranks Proposals based on least-cost best-fit ("LCBF") principles that comply with criteria set forth by the Commission in Decision ("D.") 03-06-071 and D.04-07-029 (the "LCBF Decisions").¹

B. Describe goals of IOU's bid evaluation and selection criteria and processes

The goal of SCE's evaluation and selection criteria and processes is to provide decision metrics so that SCE can procure renewable energy economically, while providing the most value to its customers. The LCBF analysis evaluates both quantitative and qualitative aspects of each Proposal to estimate its value to SCE's customers and its relative value in comparison to other Proposals.

1. Describe how "need" will be determined for this solicitation. Comment specifically on whether, and to what extent, you considered other procurement options (e.g. UOG, solar PV program, feed-in tariffs, RAM etc.) to meet IOU's overall need stated in its Procurement Plan.

SCE determines its expected renewable procurement need by comparing its forecasted RPS targets to its forecasted energy deliveries from contracted projects. The forecasted energy deliveries include SCE's probabilistic risk-adjusted forecast of generation from contracted projects that are not yet online. SCE also considers generation from pre-approved procurement programs (i.e., ReMAT, BioMAT), among other factors. Detailed methodology of forecasting SCE's net short position is described in Section II of the Written Plan. As discussed in the Section II of the Written Plan, SCE does not have a need for renewable energy to meet its RPS targets at this time.

¹ The Commission has also made rulings on various evaluation criteria in its decisions on the investor-owned utilities' ("IOUs") RPS Procurement Plans. *See also* CAL. PUB. UTIL. CODE § 399.13(a)(4)(A).

II. Bid Evaluation and Selection Criteria

While assumptions and methodologies have evolved slightly over time, the basic components of SCE's evaluation and selection criteria and process for RPS contracts were established by the Commission's LCBF Decisions. Consistent with those LCBF Decisions, the three main steps to be undertaken by SCE are: (i) initial data gathering and validation, (ii) a quantitative assessment of Proposals, and (iii) adjustments to selection based on Proposals' qualitative attributes.

Prior to receiving Proposals, SCE will finalize criteria with the Independent Evaluator ("IE") to determine which attributes could make Proposals clear outliers. SCE will then finalize the major assumptions and methodologies that drive valuation, including power and gas price forecasts, existing and forecast resource portfolio, and the capacity value forecast.

Once Proposals are received, SCE will determine which Proposals are clear outliers. For Proposals deemed clear outliers, SCE concludes any further review. SCE will then begin a review of the remaining Proposals for completeness and conformity with the solicitation protocol. The review includes an initial screen for required submission criteria such as a conforming delivery point, initial delivery dates, a valid interconnection study, minimum project size, and the submission of particular Proposal package elements. Sellers lacking any of these items will be allowed a reasonable cure period to remedy any deficiencies. In addition, SCE will conduct a review to determine the reasonableness of Proposal parameters such as generation profiles and capacity factors. SCE will work directly with sellers to resolve any issues and ensure the data is ready for evaluation.

After these reviews, SCE will perform a quantitative assessment of each Proposal and will subsequently rank them based on the Proposal's benefit and cost relationship. Specifically, SCE will use the total benefits and total costs to calculate the net levelized benefit or "Net Market Value" per each complete and conforming Proposal. Benefits consist of separate capacity, energy, and congestion components, while costs include the contract payments, debt equivalents, integration cost, congestion cost, and transmission cost. SCE discounts the monthly benefit and cost streams to a common base date. SCE also normalizes the net cost or benefit data by MWh generation. The result of the quantitative analysis is a merit-order ranking of all complete and conforming Proposals' Net Market Value. The merit-order ranking will aid in defining the preliminary shortlist.

Following the quantitative analysis, SCE will conduct an initial assessment of the top Proposals' qualitative attributes. This analysis utilizes the Project Viability Calculator. Additional attributes such as transmission area/cluster, generating facility location, seller concentration, project size, dispatchability, contribution to other program goals, and eligibility for SCE's Community Renewables ("CR") program are also considered in the qualitative analysis. These qualitative attributes are considered to either eliminate or add projects to the final shortlist based on qualitative attributes. Qualitative attributes will also be used to determine tie-breakers, if any.

Following its analysis, SCE will consult with its Procurement Review Group (“PRG”) regarding the final shortlist and specific evaluation criteria. SCE will then negotiate with the shortlisted sellers for a set period of time after notification of shortlisting, as further described in the 2018 RPS Request for Proposals (“RFP”) Procurement Protocol. SCE, in its sole discretion, reserves the right to enter into final agreements with as many sellers as SCE chooses, including the right to not enter into any final agreements at all. Whether a Proposal selected through this process results in an executed contract depends on the outcome of negotiations between SCE and sellers. Periodically, SCE updates the PRG regarding the progress of negotiations. SCE also consults with its PRG prior to the execution of any successfully negotiated contracts. Finally, SCE executes contracts and submits them to the Commission for approval via advice letter filings.

A. Description of Criteria

1. List and discuss the quantitative and qualitative criteria that will be used to evaluate and select bids.

a. Market valuation

SCE will evaluate the quantifiable attributes of each Proposal individually and subsequently rank them based on the Proposal’s Net Market Value. These individual quantitative components include: capacity benefits, energy benefits, congestion benefits, contract payments, debt equivalents mitigation cost, transmission cost, integration cost, and congestion cost. In developing its relative merit order ranking of Proposals, SCE’s evaluation methodology incorporates information provided by sellers and assumptions prescribed and set by the Commission with its internal methodologies and forecasts of market conditions. The objective of the quantitative assessment and relative Net Market Value ranking is to develop a preliminary shortlist that is further refined based on the non-quantifiable attributes discussed below. Each of the elements for the RPS quantitative analysis is described briefly below.

Benefits

- Capacity Benefit

Each Proposal is assigned capacity benefits, if applicable, based on SCE’s forecast of capacity price and the quantity of Resource Adequacy (“RA”) derived by SCE. For wind and solar Proposals, SCE will use the Effective Load Carrying Capacity (“ELCC”) methodology² with approved ELCC values from Energy Division’s second proposed methodology, as set forth in Appendix A of D.17-06-027. For Proposals with dispatchable capabilities at SCE’s control, a peak capacity contribution factor is based on the availability of the proposed project. For other technologies without dispatchable capabilities, the quantity of RA benefits is based on a three-year rolling average of production during certain hours.

² On June 29, 2017, the Commission issued the final decision (D-17-06-027) to adopt an Effective Load Carrying Capacity approach to determining the capacity value of wind and solar resources.

For Proposals located outside of the California Independent System Operator (“CAISO”), SCE limits the monthly RA quantities to the available import allocation at each CAISO intertie. SCE utilizes the CAISO’s Advisory Estimates of Future RA Import Capability (“CAISO Advisory Estimates”) published on the CAISO website.³ Capacity benefits for all Proposals located outside of the CAISO and delivering at a CAISO intertie, including Proposals located in the Imperial Irrigation District, will be capped by import capability quantities indicated in the CAISO Advisory Estimates.

Monthly capacity benefits include the product of SCE’s capacity price forecast and the quantity of RA capacity determined for each month of the year. SCE applies capacity benefits only for those months in which SCE has a capacity need. SCE attributes additional value to facilities located in the Los Angeles Basin or Big Creek/Ventura local reliability areas.

- Energy Benefit

SCE measures the energy benefits, as applicable, of a Proposal by evaluating the estimated market value of energy. The evaluation of energy benefits is performed with a base portfolio and system that is consistent with system need track of SCE’s most recent Long-Term Procurement Plan (“LTPP”), with some updates to account for the latest gas price and the results of recent procurement activities. In the event that a Proposal provides additional value to SCE from the provision of one or more ancillary services (regulation, spin, or non-spin), SCE may use an internal forecast for ancillary service prices as a means of evaluating any incremental benefit.

For Proposals with must-take energy, SCE calculates the energy benefits of a Proposal based on SCE’s internal forecast of the market value of energy. The hourly energy benefit for the Proposal is the resulting market price multiplied by the hourly seller-provided generation profile.

For Proposals with dispatchable capabilities at SCE’s control,⁴ SCE calculates the net energy benefits based on the market value of the energy when the proposed resource dispatches. SCE utilizes a production cost or equivalent model to determine the dispatch economics for the proposed resource according to the unit characteristics provided by the seller.

SCE’s gas price and power price forecasts are based on a blend of a near-term market view and a longer-term fundamental view of prices.

The simulation model, and hence the energy benefit calculation, captures additional quantitative effects that SCE has been asked to consider by the Commission, including

³ The CAISO Advisory Estimates can be found at:
<https://www.caiso.com/planning/Pages/ReliabilityRequirements/Default.aspx>.

⁴ Because of SCE’s limited RPS needs, SCE is not soliciting bids from RPS projects with energy storage that provide SCE with dispatch rights. Instead, SCE considers eligible energy storage systems to help meet its energy storage target through several different programs including conducting an Energy Storage RFO, the Aliso Canyon Energy Storage RFO and other programs that may incorporate energy storage facilities. Further details on SCE’s energy storage procurement can be found in SCE’s Energy Storage Plan

dispatchability. The dispatchability benefits, such as ancillary services and real-time flexibility, are implied in the energy benefit and are not addressed separately.

- Congestion Benefit

Localized congestion may cause a reduction or increase in prices at a particular locational marginal price (“LMP”) in the CAISO market. In D.11-04-030, the Commission held that the IOUs must incorporate an assessment of these congestion costs in their LCBF evaluation.

SCE applies a locational congestion adder to all projects to differentiate between project locations. These locational adders may be positive or negative depending on the expected congestion in the area. The locational adders are based on SCE’s forecast of LMPs in the CAISO market in the location that the seller plans to interconnect.

Projects that select an Energy-only (“EO”) interconnection do not fund the deliverability upgrades needed to ensure their energy can serve load and avoid localized congestion. As such, these projects increase the risk of congestion in these locations to a degree greater than projects with an Full Capacity Deliverability Status (“FCDS”) interconnection. In order to capture this difference, SCE applies an incremental congestion cost adder to all CAISO projects that selected an EO interconnection, or any EO portion of the contract term if FCDS status is expected to be achieved after the commercial online date. The incremental congestion cost adder is based on SCE’s estimate of the average impact on system congestion from adding incremental capacity without any incremental deliverability network upgrades, and is the same for all EO projects. The incremental congestion cost adder is also based on SCE’s forecast of LMPs in the CAISO market in the location that the seller plans to interconnect.

Costs

- Debt Equivalents

“Debt equivalents” is the term used by credit rating agencies to describe the fixed financial obligation resulting from long-term power purchase agreements (“PPAs”). Pursuant to D.04-12-048, the Commission permitted the IOUs to recognize costs associated with the effect debt equivalents has on the IOUs’ credit quality and cost of borrowing in their evaluation process. In D.07-12-052, the Commission reversed this position. SCE, however, filed a petition for modification of D.07-12-052. In November 2008, the Commission issued D.08-11-008, which authorized the IOUs to recognize the effects of debt equivalents when comparing PPAs in their bid evaluations, but not when the IOUs are considering a utility-owned generation project. As such, SCE considers debt equivalents in the evaluation process.

- Contract Payments

The primary costs associated with each Proposal are the contract payments that SCE makes to sellers for the expected renewable energy deliveries.

Proposals typically include an all-in price for delivered renewable energy, which is adjusted in each time-of-delivery (“TOD”) period by the applicable energy payment allocation factors (“TOD factors”).⁵ Total payments are determined by multiplying the generation by the contract price, adjusted for each TOD period.⁶ In R.15-02-020, on July 22, 2016, SCE submitted its Opening Comments on Least-Cost, Best Fit Reform. In those Opening Comments, at pp. 1-2, SCE stated:

Time of Delivery (“TOD”) factors are not likely to serve as an incentive for production of power at times when it is most needed in the future. First, solar and wind renewable resources have limited flexibility in the time of power production, as they must produce when fuel is available. In addition, forecasts of future demand are very uncertain. More intermittent generation resources, like solar and wind resources, being added to the grid and the impact of future policy initiatives (e.g. electrification of transportation and distributed energy resources) make load forecasts more uncertain. SCE urges the Commission to eliminate the use of TOD factors for contract payments in the foreseeable future.

Use of TOD factors for evaluation and payment purposes for eligible renewable resources is not appropriate given changing load profiles. SCE will continue to argue against their use in future comments on the Least Cost, Best Fit methodology.

That said, SCE’s power price forecast used for calculating TOD factors has changed significantly due to changes to the RPS standard as a result of SB 350. SCE will use Commission-adopted residential Time-of-Use (“TOU”) period definitions for the long term power price shapes, in its Offer evaluations.

- Integration Cost

Integration costs, where applicable, are the additional system costs required to provide sufficient operational flexibility to ensure adequate system reliability as more intermittent renewable resources join the grid. In D.14-11-042, the Commission approved an interim renewable integration cost adder (“RICA”) methodology, and directed SCE to include an interim RICA in its RPS solicitation until the Commission adopts a final methodology. The Commission also stated that a final RICA methodology will be considered in the RPS proceeding and in coordination with the LTPP proceeding and any other relevant proceedings in the future.

SCE will use an interim RICA in the LCBF evaluation process for its 2018 RPS solicitation unless a final methodology is adopted before the launch of the solicitation. Pursuant to D.14-11-042, this interim RICA will be calculated as the sum of two cost components: variable costs and fixed costs. For the interim RICA, the variable cost component is set at

⁵ On July 22 2016, SCE submitted opening comments (U 338-E) on Least Cost, Best Fit reform to urge the Commission to eliminate the use of TOD factors for contract payments in the foreseeable future. The Commission has yet to issue a decision on this.

⁶ TOU period definitions and TOD factors set forth in Exhibit I of Appendix G1 2017 RPS Plan -2017 Pro Forma.

\$4/MWh for wind and \$3/MWh for solar. SCE will calculate the fixed cost component based on SCE's portfolio need to secure additional capacity from resources not already procured to meet its flexible and non-flexible RA requirements over the contract period. Specifically, this component will be the product of two parameters:

1. SCE's confidential projection of a monthly premium (which can be zero or positive) for flexible RA expressed as \$/kW-month; and
2. Monthly increase (or decrease) in the need for flexible RA associated with one MW of installed capacity of wind or solar expressed as MW of flex capacity needed/MW of wind or solar capacity.

SCE will calculate this change in flexible RA need by using the hourly aggregate system profile for load, wind, and solar from the 2014 LTPP Trajectory Scenario. This hourly data will be used to calculate the hourly three hour net-load ramp for each hour of the year, consistent with the CAISO's Flexible Capacity study.⁷ SCE will then identify the maximum three hour net-load ramp for each month, and determine the relative contributions from wind and solar to that maximum ramp. Finally, SCE will determine the monthly increase (or decrease) in the need for flexible capacity associated with one MW of installed capacity of wind and solar. This is determined based on the relative contribution of wind/solar indicated above and the total installed capacity of wind/solar in the system. Maximum generation number for wind/solar from the 2014 LTPP Trajectory Scenario will be used as the estimate for the total installed wind/solar capacity for the system. The result of flexible capacity needs for wind/solar based on the described methodology is summarized below:

⁷ See CAISO's Final 2014 Flexible Capacity Needs Assessment at :
http://www.caiso.com/Documents/Final_2014_FlexCapacityNeedsAssessment.pdf.

Contribution of 1 MW of Installed Capacity to Flexible RA		
Month	Solar	Wind
Jan	0.52	0.12
Feb	0.75	0.09
Mar	0.63	0.15
Apr	0.78	0.13
May	0.66	0.01
Jun	0.58	0.07
Jul	0.58	0.04
Aug	0.61	0.05
Sep	0.78	0.20
Oct	0.66	0.02
Nov	0.59	0.00
Dec	0.63	0.20

SCE will apply the interim RICA in bid valuation by multiplying the monthly RICA estimates in \$/MWh to the generation profile for each wind/solar bid.

- Congestion Cost

As explained in the benefits section, congestion adders could be positive or negative depending on the direction of congestion. Depending on the direction of congestion, congestion is included as either as a cost or benefit in SCE's valuation.

- Transmission Cost

Transmission costs are based on the estimated cost of reimbursable network upgrades attributable to individual projects that are paid by SCE customers. For projects in the CAISO-controlled area, it will be the share of costs that are paid by SCE customers. SCE's customer share of network upgrade costs will be determined by the CAISO's latest numbers for utility-specific Transmission Access Charges based on load share. For non-CAISO controlled projects, this cost will be zero.

SCE requires sellers to have an existing Phase II Interconnection Study or to have an equivalent or better process or exemption. Transmission costs applicable to the project will be based on the applicable completed interconnection study or interconnection agreement.

b. Transmission Cost Adders

SCE requires all sellers have an existing Phase II Interconnection Study or to have an equivalent or better process or exemption. The seller must provide copies of all interconnection studies and/or agreements as part of seller's Proposal.

SCE uses the interconnection studies submitted as part of the Proposal submittal package to determine the applicable network upgrade costs for all projects. SCE will not impute these costs for projects in transmission-constrained areas. SCE applies the required upgrade costs to get the project delivered to the nearest defined market (e.g., NP15, SP15, ZP 26 Generation Trading Hubs).

c. Portfolio fit

SCE's LCBF quantitative evaluation process inherently captures the impact of portfolio fit. For example, as different Proposals are added to the overall portfolio, the resultant residual net short or net long position is impacted. Projects that more often increase SCE's net long capacity positions are assigned less capacity benefits than those projects that are more often filling net short positions.

SCE also considers portfolio fit in its qualitative analysis. Specifically, when assessing additional qualitative characteristics to determine advancement to the shortlist or tie-breakers, SCE's preference is for those projects that have commercial operation dates that match periods of SCE's need for renewable energy.

d. Credit and collateral requirements

In order to ensure comparable pricing for ranking, SCE requires sellers to bid conforming Proposals committing to posting SCE's pro forma performance assurance amount. SCE accepts lesser performance assurance to be bid as long as a conforming Proposal is also submitted. Performance assurance is the collateral posted by the seller during the operating period.

e. Project Viability

SCE assesses the following attributes using the Project Viability Calculator:

- Company/Development Team
- Project Development Experience
- Ownership/O&M Experience
- Technology
- Technical Feasibility
- Resource Quality
- Manufacturing Supply Chain
- Development Milestones
- Site Control
- Permitting Status
- Project Financing Status
- Interconnection Progress
- Transmission Requirements
- Reasonableness of Commercial Operation Date ("COD")

f. Other qualitative criteria / preferences

Following the Project Viability Calculator qualitative assessment, SCE considers additional qualitative characteristics to determine advancement to the shortlist or tie-breakers, if any. These additional characteristics may include:

- Nominal contract payments
- Contribution to other SCE program goals
- Impact of project construction on employment growth
- Impact of project operation on employment growth
- Transmission area (e.g., Tehachapi, Sunrise, within SCE's load pocket)
- Congestion, negative price, and curtailment considerations not captured in the quantitative valuation
- EO concentration
- Facility interconnection process progress
- Portfolio fit of COD
- Prior experience with project developers/sellers
- Seller concentration
- Expected generation (GWh/year)
- Dispatchability
- Environmental impacts of seller's proposed project on California's water quality and use
- Resource diversity
- Benefits to disadvantaged minority and low income communities
- Local reliability
- Environmental stewardship
- Project eligibility for CR and Environmental Justice ("EJ") program

B. If a weighting system is used, please describe how each LCBF component is assigned a quantitative or qualitative weighting compared to other components. Discuss the rationale for the weightings.

SCE does not apply a weighting system in its LCBF evaluation.

C. Describe role of quantitative and qualitative factors on the LCBF ranking process.

SCE's LCBF quantitative evaluation of the Proposals incorporates energy and capacity benefits with nominal contract payments, transmission cost, debt equivalence, integration cost, and congestion cost to create individual benefit and cost relationships, namely, the Net Market Value. It is the Net Market Value that is used to rank and compare each project. Qualitative attributes of each Proposal are then considered to further screen the shortlist and arrive at a final shortlist of Proposals.

D. Discuss how the evaluation process differs, if at all, for out-of-state projects (e.g. incorporating costs of delivering energy from out-of-state facilities).

The overall evaluation methodology is applied consistently to projects regardless of location. Energy benefits for those projects outside of the CAISO are based on the pricing at the seller-elected liquid power trading hub or CAISO intertie (subject to SCE's approval in its sole discretion) according to SCE's fundamental price forecast for hubs across the Western Electricity Coordinating Council ("WECC"). For projects with an assumed delivery point outside the CAISO (e.g., liquid power trading hub), SCE applies a power swapping methodology, where the power is assumed to be sold into the local market.

SCE customers are not liable for network upgrades outside of the CAISO or California (outside of any costs that may be imbedded within the contract pricing) so transmission cost adders are zero for those projects.

E. Evaluation of utility-owned, turnkey, buyouts, and utility-affiliate projects

1. Describe how utility-owned projects are evaluated against PPAs.

SCE views utility-owned cost-of-service generation as a necessary and good option for customers to have. SCE does not evaluate proposed utility-owned projects against PPAs, as utility-owned generation and contracted-for generation are fundamentally different products. As such, any attempt to do a numerical comparison of them is unworkable. This topic is discussed in detail in the Supplemental Testimony to SCE's 2010 LTPP. Moreover, approval of a utility-owned project would not be submitted through the solicitation process, but through a formal application.

2. Describe how turnkey projects are evaluated against PPAs.

Turnkey projects are similar to utility-owned projects. Refer to the response to II.E.1 above.

3. Describe how buyout projects are evaluated against PPAs

Project buyout options are essentially a hybrid of utility-owned projects and PPAs. Refer to the response to II.E.1 above.

4. Describe how utility-affiliate projects are evaluated against non-affiliate projects.

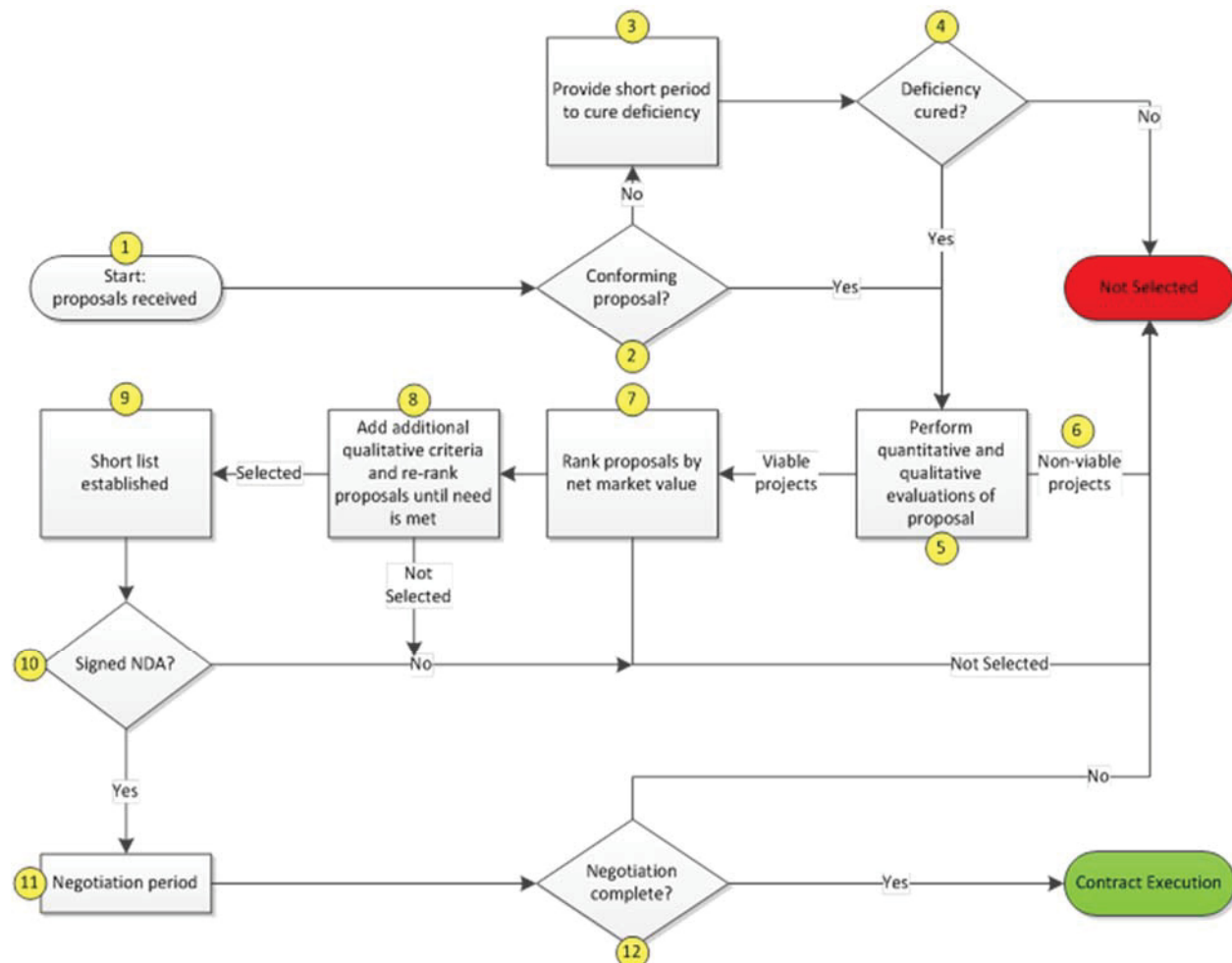
Utility-affiliate projects are evaluated in the same manner as non-affiliate projects. In addition, evaluation of utility-affiliate projects would be subject to review by the IE, the PRG, the Commission, and the Federal Energy Regulatory Commission ("FERC") through the approval process.

F. Explain how there is no double counting between the RICA and Net Market Value components.

SCE's LCBF methodology does not lead to double counting between the RICA and other NMV components. The RICA does not impact other NMV components. Specifically, the NMV energy component is determined through forecasted energy prices, which are based on near-term market energy prices and long-term fundamental energy prices. Renewable integration costs are the additional system costs required to provide sufficient operational flexibility to ensure adequate system reliability as more intermittent renewable resources join the grid, which are not captured in any other NMV components. Therefore, the RICA is applied as a separate and distinct cash flow component to the NMV after the calculation of other NMV components is complete.

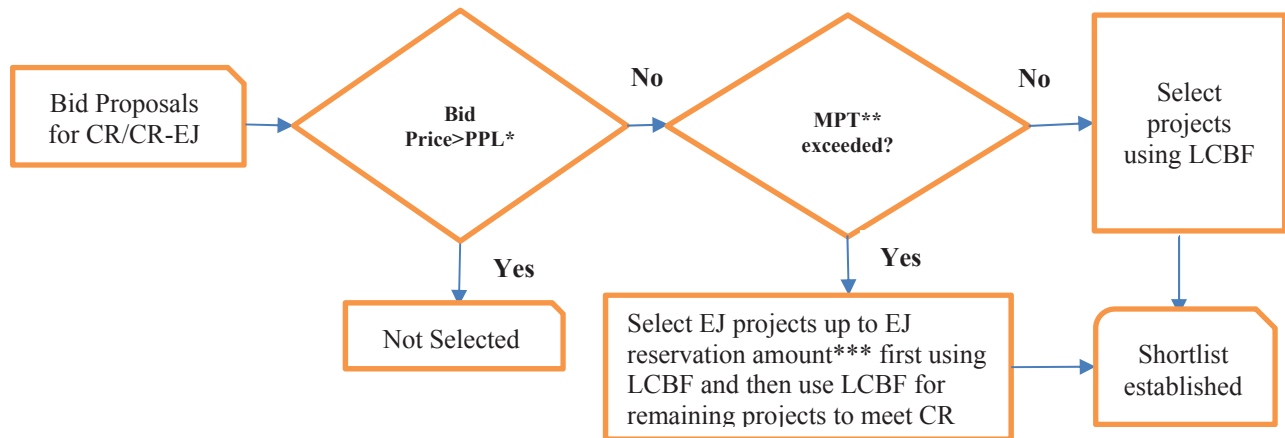
III. Bid Evaluation and Selection Process

A. What is the process by which bids are received and evaluated, selected or rejected for shortlist inclusion, and further evaluated once on the shortlist?



For community renewables, there are additional selection criteria that are needed to be considered as laid out in the picture below:

Selection Process for Community Renewables (CR)



* PPL or Procurement Price Limit: *See* D.16-05-006 at Ordering Paragraph 3.

** MPT or Minimum Procurement Target. *See* D.16-05-006 at Ordering Paragraph 1.

*** *See* D.16-05-006 at Ordering Paragraph 2.

B. What is the typical amount of time required for each part of the process?

The typical amount of time required for the shortlisting process depends on the volume of Proposals received by SCE during a solicitation. Historically, it has taken SCE no more than eight weeks to complete the LCBF evaluation process, which includes quality control of sellers' information, transmission assessment, quantitative assessment, qualitative assessment, management review, and PRG meetings. Going forward, the complexity of Proposals received in RFPs and overlapping procurement programs will require additional time to complete this process. SCE believes that 12 weeks is reasonable to complete the shortlisting process.

C. Describe involvement of the Independent Evaluator.

The IE monitors SCE's RPS solicitations, provides an independent review of SCE's process, models, assumptions, and the Proposals it may receive, and helps the Commission and SCE's PRG participants by providing them with information and assessments to ensure that the solicitation was conducted fairly and that the most appropriate resources were shortlisted. The IE also provides an assessment of SCE's RPS solicitation from the initial phase of the solicitation (i.e., the publicizing of the issuance of the RFP) through the development of a shortlist of Proposals with whom SCE has commenced negotiations. Further, the IE monitors the negotiation process to ensure that all shortlisted bidders are treated consistently and files reports on each final executed contract.

D. Describe involvement of the Procurement Review Group.

SCE consults with its PRG during each step of the renewable procurement process. Among other things, SCE provides access to the solicitation materials and pro forma contracts to the PRG for review and comment before commencing the RFP; informs the PRG of the initial results of the RFP; explains the evaluation process; and updates the PRG periodically concerning the status of contract formation.

E. Discuss whether and how feedback on the solicitation process is requested from bidders (both successful and unsuccessful) after the solicitation is complete.

SCE regularly receives feedback during the normal course of its solicitation process and has conducted web-based surveys at the conclusion of past RFPs.

PUBLIC APPENDIX G.2

Redline of SCE's Least-Cost Best-Fit Methodology

Southern California Edison Company's ("SCE") Least-Cost Best-Fit Methodology

I. Introduction

A. ~~A.~~—Note relevant language in statute and CPUC decisions approving LCBF process and requiring LCBF Reports

Under the direction of the California Public Utilities Commission (the "Commission" or "CPUC"), SCE conducts solicitations for the purpose of procuring power from eligible renewable energy resources to meet California's Renewables Portfolio Standard ("RPS"). SCE evaluates and ranks Proposals based on least-cost best-fit ("LCBF") principles that comply with criteria set forth by the Commission in Decision ("D.") 03-06-071 and D.04-07-029 (the "LCBF Decisions").¹

B. ~~B.~~—Describe goals of IOU's bid evaluation and selection criteria and processes

The goal of SCE's evaluation and selection criteria and processes is to provide decision metrics so that SCE can procure renewable energy economically, while providing the most value to its customers. The LCBF analysis evaluates both quantitative and qualitative aspects of each Proposal to estimate its value to SCE's customers and its relative value in comparison to other Proposals.

1. Describe how "need" will be determined for this solicitation. Comment specifically on whether, and to what extent, you considered other procurement options (e.g. UOG, solar PV program, feed-in tariffs, RAM etc.) to meet IOU's overall need stated in its Procurement Plan.

SCE determines its expected renewable procurement need by comparing its forecasted RPS targets to its forecasted energy deliveries from contracted projects. The forecasted energy deliveries include SCE's probabilistic risk-adjusted forecast of generation from contracted projects that are not yet online. SCE also considers generation from pre-approved procurement programs (i.e., ReMAT, BioMAT), among other factors. Detailed methodology of forecasting SCE's net short position is described in Section II of the Written Plan. As discussed in the Section II of the Written Plan, SCE does not have a need for renewable energy to meet its RPS targets at this time.

¹ The Commission has also made rulings on various evaluation criteria in its decisions on the investor-owned utilities' ("IOUs") RPS Procurement Plans. *See also* CAL. PUB. UTIL. CODE § 399.13(a)(4)(A).

II. Bid Evaluation and Selection Criteria

While assumptions and methodologies have evolved slightly over time, the basic components of SCE's evaluation and selection criteria and process for RPS contracts were established by the Commission's LCBF Decisions. Consistent with those LCBF Decisions, the three main steps to be undertaken by SCE are: (i) initial data gathering and validation, (ii) a quantitative assessment of Proposals, and (iii) adjustments to selection based on Proposals' qualitative attributes.

Prior to receiving Proposals, SCE will finalize criteria with the Independent Evaluator ("IE") to determine which attributes could make Proposals clear outliers. SCE will then finalize the major assumptions and methodologies that drive valuation, including power and gas price forecasts, existing and forecast resource portfolio, and the capacity value forecast.

Once Proposals are received, SCE will determine which Proposals are clear outliers. For Proposals deemed clear outliers, SCE concludes any further review. SCE will then begin a review of the remaining Proposals for completeness and conformity with the solicitation protocol. The review includes an initial screen for required submission criteria such as a conforming delivery point, initial delivery dates, a valid interconnection study, minimum project size, and the submission of particular Proposal package elements. Sellers lacking any of these items will be allowed a reasonable cure period to remedy any deficiencies. In addition, SCE will conduct a review to determine the reasonableness of Proposal parameters such as generation profiles and capacity factors. SCE will work directly with sellers to resolve any issues and ensure the data is ready for evaluation.

After these reviews, SCE will perform a quantitative assessment of each Proposal and will subsequently rank them based on the Proposal's benefit and cost relationship. Specifically, SCE will use the total benefits and total costs to calculate the net levelized benefit or "Net Market Value" per each complete and conforming Proposal. Benefits consist of separate capacity, energy, and congestion components, while costs include the contract payments, debt equivalents, integration cost, congestion cost, and transmission cost. SCE discounts the monthly benefit and cost streams to a common base date. SCE also normalizes the net cost or benefit data by MWh generation. The result of the quantitative analysis is a merit-order ranking of all complete and conforming Proposals' Net Market Value. The merit-order ranking will aid in defining the preliminary shortlist.

Following the quantitative analysis, SCE will conduct an initial assessment of the top Proposals' qualitative attributes. This analysis utilizes the Project Viability Calculator. Additional attributes such as transmission area/cluster, generating facility location, seller concentration, project size, dispatchability, contribution to other program goals, and eligibility for SCE's Community Renewables ("CR") program are also considered in the qualitative analysis. These qualitative attributes are considered to either eliminate or add projects to the final shortlist based on qualitative attributes. Qualitative attributes will also be used to determine tie-breakers, if any.

Following its analysis, SCE will consult with its Procurement Review Group (“PRG”) regarding the final shortlist and specific evaluation criteria. SCE will then negotiate with the shortlisted sellers for a set period of time after notification of shortlisting, as further described in the ~~2017~~2018 RPS Request for Proposals (“RFP”) Procurement Protocol. SCE, in its sole discretion, reserves the right to enter into final agreements with as many sellers as SCE chooses, including the right to not enter into any final agreements at all. Whether a Proposal selected through this process results in an executed contract depends on the outcome of negotiations between SCE and sellers. Periodically, SCE updates the PRG regarding the progress of negotiations. SCE also consults with its PRG prior to the execution of any successfully negotiated contracts. Finally, SCE executes contracts and submits them to the Commission for approval via advice letter filings.

A. Description of Criteria

1. List and discuss the quantitative and qualitative criteria that will be used to evaluate and select bids.

a. Market valuation

SCE will evaluate the quantifiable attributes of each Proposal individually and subsequently rank them based on the Proposal’s Net Market Value. These individual quantitative components include: capacity benefits, energy benefits, congestion benefits, contract payments, debt equivalents mitigation cost, transmission cost, integration cost, and congestion cost. In developing its relative merit order ranking of Proposals, SCE’s evaluation methodology incorporates information provided by sellers and assumptions prescribed and set by the Commission with its internal methodologies and forecasts of market conditions. The objective of the quantitative assessment and relative Net Market Value ranking is to develop a preliminary shortlist that is further refined based on the non-quantifiable attributes discussed below. Each of the elements for the RPS quantitative analysis is described briefly below.

Benefits

- Capacity Benefit

Each Proposal is assigned capacity benefits, if applicable, based on SCE’s forecast of capacity price and the quantity of Resource Adequacy (“RA”) derived by SCE. For wind and solar Proposals, SCE will use the Effective Load Carrying Capacity (“ELCC”) methodology² with approved ELCC values from Energy Division’s second proposed methodology, as set forth in Appendix A of D.17-06-027. For Proposals with dispatchable capabilities at SCE’s control, a peak capacity contribution factor is based on the availability of the proposed project. For other technologies without dispatchable capabilities, the quantity of RA benefits is based on a three-year rolling average of production during certain hours.

² On June 29, 2017, the Commission issued the final decision (D-17-06-027) to adopt an Effective Load Carrying Capacity approach to determining the capacity value of wind and solar resources.

For Proposals located outside of the California Independent System Operator (“CAISO”), SCE limits the monthly RA quantities to the available import allocation at each CAISO intertie. SCE utilizes the CAISO’s Advisory Estimates of Future RA Import Capability (“CAISO Advisory Estimates”) published on the CAISO website.³ Capacity benefits for all Proposals located outside of the CAISO and delivering at a CAISO intertie, including Proposals located in the Imperial Irrigation District, will be capped by import capability quantities indicated in the CAISO Advisory Estimates.

Monthly capacity benefits include the product of SCE’s capacity price forecast and the quantity of RA capacity determined for each month of the year. SCE applies capacity benefits only for those months in which SCE has a capacity need. SCE attributes additional value to facilities located in the Los Angeles Basin or Big Creek/Ventura local reliability areas.

- Energy Benefit

SCE measures the energy benefits, as applicable, of a Proposal by evaluating the estimated market value of energy. The evaluation of energy benefits is performed with a base portfolio and system that is consistent with system need track of SCE’s most recent Long-Term Procurement Plan (“LTPP”), with some updates to account for the latest gas price and the results of recent procurement activities. In the event that a Proposal provides additional value to SCE from the provision of one or more ancillary services (regulation, spin, or non-spin), SCE may use an internal forecast for ancillary service prices as a means of evaluating any incremental benefit.

For Proposals with must-take energy, SCE calculates the energy benefits of a Proposal based on SCE’s internal forecast of the market value of energy. The hourly energy benefit for the Proposal is the resulting market price multiplied by the hourly seller-provided generation profile.

For Proposals with dispatchable capabilities at SCE’s control,⁴ SCE calculates the net energy benefits based on the market value of the energy when the proposed resource dispatches. SCE utilizes a production cost or equivalent model to determine the dispatch economics for the proposed resource according to the unit characteristics provided by the seller.

SCE’s gas price and power price forecasts are based on a blend of a near-term market view and a longer-term fundamental view of prices.

The simulation model, and hence the energy benefit calculation, captures additional quantitative effects that SCE has been asked to consider by the Commission, including

³ The CAISO Advisory Estimates can be found at:
<https://www.caiso.com/planning/Pages/ReliabilityRequirements/Default.aspx>.

⁴ Because of SCE’s limited RPS needs, SCE is not soliciting bids from RPS projects with energy storage that provide SCE with dispatch rights. Instead, SCE considers eligible energy storage systems to help meet its energy storage target through several different programs including conducting an Energy Storage RFO, the Aliso Canyon Energy Storage RFO and other programs that may incorporate energy storage facilities. Further details on SCE’s energy storage procurement can be found in SCE’s Energy Storage Plan

dispatchability. The dispatchability benefits, such as ancillary services and real-time flexibility, are implied in the energy benefit and are not addressed separately.

- Congestion Benefit

Localized congestion may cause a reduction or increase in prices at a particular locational marginal price (“LMP”) in the CAISO market. In D.11-04-030, the Commission held that the IOUs must incorporate an assessment of these congestion costs in their LCBF evaluation.

SCE applies a locational congestion adder to all projects to differentiate between project locations. These locational adders may be positive or negative depending on the expected congestion in the area. The locational adders are based on SCE’s forecast of LMPs in the CAISO market in the location that the seller plans to interconnect.

Projects that select an Energy-only (“EO”) interconnection do not fund the deliverability upgrades needed to ensure their energy can serve load and avoid localized congestion. As such, these projects increase the risk of congestion in these locations to a degree greater than projects with an Full Capacity Deliverability Status (“FCDS”) interconnection. In order to capture this difference, SCE applies an incremental congestion cost adder to all CAISO projects that selected an EO interconnection, or any EO portion of the contract term if FCDS status is expected to be achieved after the commercial online date. The incremental congestion cost adder is based on SCE’s estimate of the average impact on system congestion from adding incremental capacity without any incremental deliverability network upgrades, and is the same for all EO projects. The incremental congestion cost adder is also based on SCE’s forecast of LMPs in the CAISO market in the location that the seller plans to interconnect.

Costs

- Debt Equivalents

“Debt equivalents” is the term used by credit rating agencies to describe the fixed financial obligation resulting from long-term power purchase agreements (“PPAs”). Pursuant to D.04-12-048, the Commission permitted the IOUs to recognize costs associated with the effect debt equivalents has on the IOUs’ credit quality and cost of borrowing in their evaluation process. In D.07-12-052, the Commission reversed this position. SCE, however, filed a petition for modification of D.07-12-052. In November 2008, the Commission issued D.08-11-008, which authorized the IOUs to recognize the effects of debt equivalents when comparing PPAs in their bid evaluations, but not when the IOUs are considering a utility-owned generation project. As such, SCE considers debt equivalents in the evaluation process.

- Contract Payments

The primary costs associated with each Proposal are the contract payments that SCE makes to sellers for the expected renewable energy deliveries.

Proposals typically include an all-in price for delivered renewable energy, which is adjusted in each time-of-delivery (“TOD”) period by the applicable energy payment allocation factors (“TOD factors”).⁵ Total payments are determined by multiplying the generation by the contract price, adjusted for each TOD period.⁶ In R.15-02-020, on July 22, 2016, SCE submitted its Opening Comments on Least-Cost, Best Fit Reform. In those Opening Comments, at pp. 1-2, SCE stated:

Time of Delivery (“TOD”) factors are not likely to serve as an incentive for production of power at times when it is most needed in the future. First, solar and wind renewable resources have limited flexibility in the time of power production, as they must produce when fuel is available. In addition, forecasts of future demand are very uncertain. More intermittent generation resources, like solar and wind resources, being added to the grid and the impact of future policy initiatives (e.g. electrification of transportation and distributed energy resources) make load forecasts more uncertain. SCE urges the Commission to eliminate the use of TOD factors for contract payments in the foreseeable future.

Use of TOD factors for evaluation and payment purposes for eligible renewable resources is not appropriate given changing load profiles. SCE will continue to argue against their use in future comments on the Least Cost, Best Fit methodology.

That said, SCE’s power price forecast used for calculating TOD factors has changed significantly due to changes to the RPS standard as a result of SB 350. ~~The existing SCE will use Commission-adopted~~ residential Time-of-Use (“TOU”) period definitions ~~might not be reflective of~~ for the long term power price shapes. ~~SCE will wait for the Commission to establish new TOU period definitions through the TOU OIR R.15-12-012. Once the new TOU periods are established, SCE will compare them to its long term power price shapes. If the periods are consistent with SCE’s long term power price shapes, SCE will use the new TOU period definitions and calculate TOD factors accordingly. If the new TOU period definitions do not align with SCE’s long term power price shapes, SCE may develop new definitions and factors based on its long term power price forecasts.~~ in its Offer evaluations.

- Integration Cost

Integration costs, where applicable, are the additional system costs required to provide sufficient operational flexibility to ensure adequate system reliability as more intermittent renewable resources join the grid. In D.14-11-042, the Commission approved an interim renewable integration cost adder (“RICA”) methodology, and directed SCE to include an interim RICA in its RPS solicitation until the Commission adopts a final methodology. The Commission

⁵ On July 22 2016, SCE submitted opening comments (U 338-E) on Least Cost, Best Fit reform to urge the Commission to eliminate the use of TOD factors for contract payments in the foreseeable future. The Commission has yet to issue a decision on this.

⁶ TOU period definitions and TOD factors set forth in Exhibit I of Appendix G1 2017 RPS Plan -2017 Pro Forma.

also stated that a final RICA methodology will be considered in the RPS proceeding and in coordination with the LTPP proceeding and any other relevant proceedings in the future.

SCE will use an interim RICA in the LCBF evaluation process for its ~~2017~~2018 RPS solicitation unless a final methodology is adopted before the launch of the solicitation. Pursuant to D.14-11-042, this interim RICA will be calculated as the sum of two cost components: variable costs and fixed costs. For the interim RICA, the variable cost component is set at \$4/MWh for wind and \$3/MWh for solar. SCE will calculate the fixed cost component based on SCE's portfolio need to secure additional capacity from resources not already procured to meet its flexible and non-flexible RA requirements over the contract period. Specifically, this component will be the product of two parameters:

1. SCE's confidential projection of a monthly premium (which can be zero or positive) for flexible RA expressed as \$/kW-month; and
2. Monthly increase (or decrease) in the need for flexible RA associated with one MW of installed capacity of wind or solar expressed as MW of flex capacity needed/MW of wind or solar capacity.

SCE will calculate this change in flexible RA need by using the hourly aggregate system profile for load, wind, and solar from the 2014 LTPP Trajectory Scenario. This hourly data will be used to calculate the hourly three hour net-load ramp for each hour of the year, consistent with the CAISO's Flexible Capacity study.⁷ SCE will then identify the maximum three hour net-load ramp for each month, and determine the relative contributions from wind and solar to that maximum ramp. Finally, SCE will determine the monthly increase (or decrease) in the need for flexible capacity associated with one MW of installed capacity of wind and solar. This is determined based on the relative contribution of wind/solar indicated above and the total installed capacity of wind/solar in the system. Maximum generation number for wind/solar from the 2014 LTPP Trajectory Scenario will be used as the estimate for the total installed wind/solar capacity for the system. The result of flexible capacity needs for wind/solar based on the described methodology is summarized below:

⁷ See CAISO's Final 2014 Flexible Capacity Needs Assessment at : http://www.caiso.com/Documents/Final_2014_FlexCapacityNeedsAssessment.pdf.

Contribution of 1 MW of Installed Capacity to Flexible RA		
Month	Solar	Wind
Jan	0.52	0.12
Feb	0.75	0.09
Mar	0.63	0.15
Apr	0.78	0.13
May	0.66	0.01
Jun	0.58	0.07
Jul	0.58	0.04
Aug	0.61	0.05
Sep	0.78	0.20
Oct	0.66	0.02
Nov	0.59	0.00
Dec	0.63	0.20

SCE will apply the interim RICA in bid valuation by multiplying the monthly RICA estimates in \$/MWh to the generation profile for each wind/solar bid.

- Congestion Cost

As explained in the benefits section, congestion adders could be positive or negative depending on the direction of congestion. Depending on the direction of congestion, congestion is included as either as a cost or benefit in SCE's valuation.

- Transmission Cost

Transmission costs are based on the estimated cost of reimbursable network upgrades attributable to individual projects that are paid by SCE customers. For projects in the CAISO-controlled area, it will be the share of costs that are paid by SCE customers. SCE's customer share of network upgrade costs will be determined by the CAISO's latest numbers for utility-specific Transmission Access Charges based on load share. For non-CAISO controlled projects, this cost will be zero.

SCE requires sellers to have an existing Phase II Interconnection Study or to have an equivalent or better process or exemption. Transmission costs applicable to the project will be based on the applicable completed interconnection study or interconnection agreement.

b. Transmission Cost Adders

~~Discuss how much detailed transmission cost information the IOU requires for each project.~~

SCE requires all sellers have an existing Phase II Interconnection Study or to have an equivalent or better process or exemption. The seller must provide copies of all interconnection studies and/or agreements as part of seller's Proposal.

~~Discuss whether cost adders are always imputed for projects in transmission-constrained areas, or whether and how costs for alternative commercial transactions (i.e. swapping, remarketing) are substituted.~~

SCE uses the interconnection studies submitted as part of the Proposal submittal package to determine the applicable network upgrade costs for all projects. SCE will not impute these costs for projects in transmission-constrained areas. SCE applies the required upgrade costs to get the project delivered to the nearest defined market (e.g., NP15, SP15, ZP 26 Generation Trading Hubs).

c. Portfolio fit

SCE's LCBF quantitative evaluation process inherently captures the impact of portfolio fit. For example, as different Proposals are added to the overall portfolio, the resultant residual net short or net long position is impacted. Projects that more often increase SCE's net long capacity

positions are assigned less capacity benefits than those projects that are more often filling net short positions.

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f. Other qualitative criteria / preferences

Following the Project Viability Calculator qualitative assessment, SCE considers additional qualitative characteristics to determine advancement to the shortlist or tie-breakers, if any. These additional characteristics may include:

- Nominal contract payments
- Contribution to other SCE program goals
- Impact of project construction on employment growth
- Impact of project operation on employment growth

- Transmission area (e.g., Tehachapi, Sunrise, within SCE’s load pocket)
- Congestion, negative price, and curtailment considerations not captured in the quantitative valuation
- EO concentration
- Facility interconnection process progress
- Portfolio fit of COD
- Prior experience with project developers/sellers
- Seller concentration
- Expected generation (GWh/year)
- Dispatchability
- Environmental impacts of seller’s proposed project on California’s water quality and use
- Resource diversity
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B. If a weighting system is used, please describe how each LCBF component is assigned a quantitative or qualitative weighting compared to other components. Discuss the rationale for the weightings.

SCE does not apply a weighting system in its LCBF evaluation.

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D. Discuss how the evaluation process differs, if at all, for out-of-state projects (e.g. incorporating costs of delivering energy from out-of-state facilities).

The overall evaluation methodology is applied consistently to projects regardless of location. Energy benefits for those projects outside of the CAISO are based on the pricing at the seller-elected liquid power trading hub or CAISO intertie (subject to SCE’s approval in its sole discretion) according to SCE’s fundamental price forecast for hubs across the Western Electricity Coordinating Council (“WECC”). For projects with an assumed delivery point outside the CAISO

(e.g., liquid power trading hub), SCE applies a power swapping methodology, where the power is assumed to be sold into the local market.

SCE customers are not liable for network upgrades outside of the CAISO or California (outside of any costs that may be imbedded within the contract pricing) so transmission cost adders are zero for those projects.

E. Evaluation of utility-owned, turnkey, buyouts, and utility-affiliate projects

1. Describe how utility-owned projects are evaluated against PPAs.

SCE views utility-owned cost-of-service generation as a necessary and good option for customers to have. SCE does not evaluate proposed utility-owned projects against PPAs, as utility-owned generation and contracted-for generation are fundamentally different products. As such, any attempt to do a numerical comparison of them is unworkable. This topic is discussed in detail in the Supplemental Testimony to SCE's 2010 LTPP. Moreover, approval of a utility-owned project would not be submitted through the solicitation process, but through a formal application.

2. Describe how turnkey projects are evaluated against PPAs.

Turnkey projects are similar to utility-owned projects. Refer to the response to II.E.1 above.

3. Describe how buyout projects are evaluated against PPAs

Project buyout options are essentially a hybrid of utility-owned projects and PPAs. Refer to the response to II.E.1 above.

4. Describe how utility-affiliate projects are evaluated against non-affiliate projects.

Utility-affiliate projects are evaluated in the same manner as non-affiliate projects. In addition, evaluation of utility-affiliate projects would be subject to review by the IE, the PRG, the Commission, and the Federal Energy Regulatory Commission ("FERC") through the approval process.

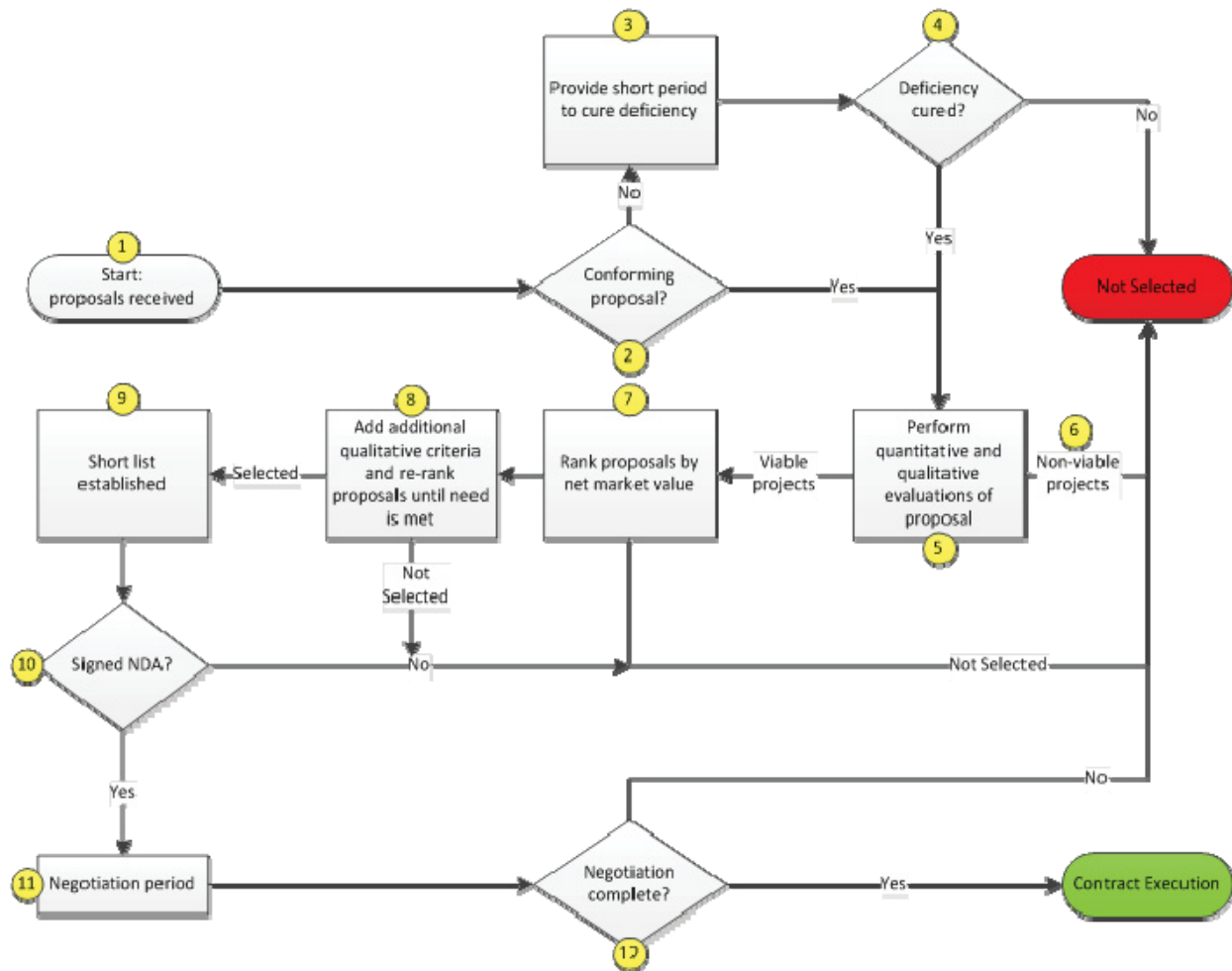
F. Explain how there is no double counting between the RICA and Net Market Value components.

SCE's LCBF methodology does not lead to double counting between the RICA and other NMV components. The RICA does not impact other NMV components. Specifically, the NMV energy component is determined through forecasted energy prices, which are based on near-term market energy prices and long-term fundamental energy prices. Renewable integration costs are the additional system costs required to provide sufficient operational flexibility to ensure adequate system reliability as more intermittent renewable resources join the grid, which are not captured in

any other NMV components. Therefore, the RICA is applied as a separate and distinct cash flow component to the NMV after the calculation of other NMV components is complete.

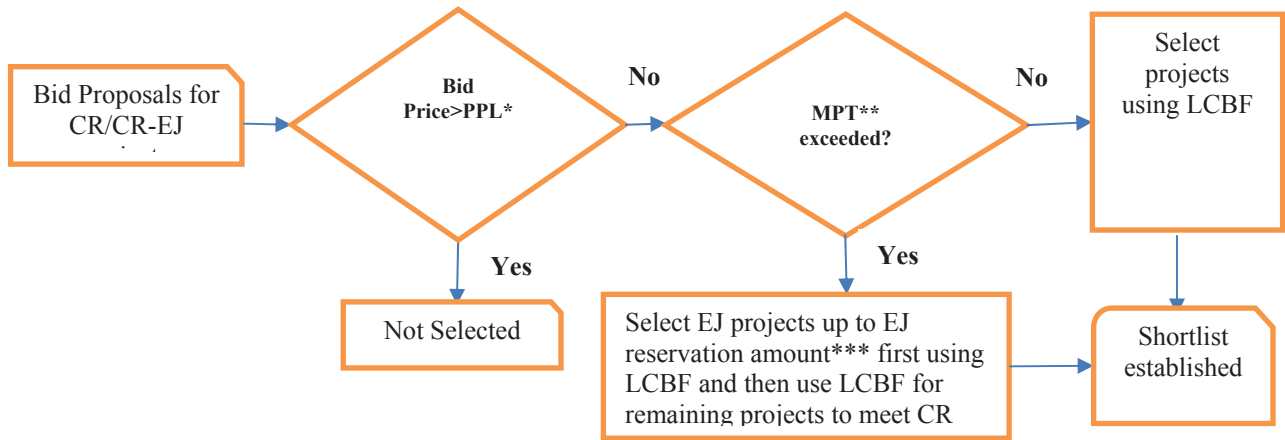
III. Bid Evaluation and Selection Process

A. What is the process by which bids are received and evaluated, selected or rejected for shortlist inclusion, and further evaluated once on the shortlist?



For community renewables, there are additional selection criteria that are needed to be considered as laid out in the picture below:

Selection Process for Community Renewables (CR)



* PPL or Procurement Price Limit: *See* D.16-05-006 at Ordering Paragraph 3.

** MPT or Minimum Procurement Target. *See* D.16-05-006 at Ordering Paragraph 1.

*** *See* D.16-05-006 at Ordering Paragraph 2.

B. What is the typical amount of time required for each part of the process?

The typical amount of time required for the shortlisting process depends on the volume of Proposals received by SCE during a solicitation. Historically, it has taken SCE no more than eight weeks to complete the LCBF evaluation process, which includes quality control of sellers' information, transmission assessment, quantitative assessment, qualitative assessment, management review, and PRG meetings. Going forward, the complexity of Proposals received in RFPs and overlapping procurement programs will require additional time to complete this process. SCE believes that 12 weeks is reasonable to complete the shortlisting process.

C. Describe involvement of the Independent Evaluator.

The IE monitors SCE's RPS solicitations, provides an independent review of SCE's process, models, assumptions, and the Proposals it may receive, and helps the Commission and SCE's PRG participants by providing them with information and assessments to ensure that the solicitation was conducted fairly and that the most appropriate resources were shortlisted. The IE also provides an assessment of SCE's RPS solicitation from the initial phase of the solicitation (i.e., the publicizing of the issuance of the RFP) through the development of a shortlist of Proposals with whom SCE has commenced negotiations. Further, the IE monitors the negotiation process to ensure that all shortlisted bidders are treated consistently and files reports on each final executed contract.

D. ~~D.~~ Describe involvement of the Procurement Review Group.

SCE consults with its PRG during each step of the renewable procurement process. Among other things, SCE provides access to the solicitation materials and pro forma contracts to the PRG for review and comment before commencing the RFP; informs the PRG of the initial results of the RFP; explains the evaluation process; and updates the PRG periodically concerning the status of contract formation.

E. ~~E.~~ Discuss whether and how feedback on the solicitation process is requested from bidders (both successful and unsuccessful) after the solicitation is complete.

SCE regularly receives feedback during the normal course of its solicitation process and has conducted web-based surveys at the conclusion of past RFPs.

Document comparison by Workshare Compare on Wednesday, August 15, 2018
10:05:23 AM

Input:	
Document 1 ID	file:///H:/Carol Schmid-Frazee/2018 RPS Draft Plan/Compare/App H.1 (PUBLIC) 2017 Final RPS Plan SCE's LCBF Methodology.docx
Description	App H.1 (PUBLIC) 2017 Final RPS Plan SCE's LCBF Methodology
Document 2 ID	file:///H:/Carol Schmid-Frazee/2018 RPS Draft Plan/Compare/App G.1 (PUBLIC) 2018 RPS Plan SCE's LCBF Methodology.docx
Description	App G.1 (PUBLIC) 2018 RPS Plan SCE's LCBF Methodology
Rendering set	Standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	10
Deletions	15
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	25

PUBLIC APPENDIX H.1
2018 Procurement Protocol



SOUTHERN CALIFORNIA
EDISON[®]

An *EDISON INTERNATIONAL*[®] Company

2018
Request for Proposals
from
Eligible Renewable Energy Resource Suppliers
for
Renewable Products

Procurement Protocol

Posted TBD

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LIST OF ASSOCIATED DOCUMENTS

A. *PRO FORMA* RENEWABLE POWER PURCHASE AGREEMENT

B. *PRO FORMA* REC SALES CONFIRMATION

*All of the above documents may be located and downloaded from the **RPS Solicitation Website** which may be found here: <https://sعرps.accionpower.com>¹*

¹ All references to the RPS Solicitation Website herein refer to this website location or other location as may be determined by SCE and communicated to the participants.

ARTICLE ONE.

GENERAL INFORMATION

1.1 Introduction

In this 2018 Renewables Portfolio Standard Request for Proposals (“RPS Solicitation”), Southern California Edison Company (“SCE”) is soliciting proposals (“Proposal” or “Proposals”) from bidders (“Seller” or “Sellers”)² to supply Bundled Energy Product (as defined in Section 1.02 and referred to herein as “Product”) from Eligible Renewable Energy Resources (“ERR,” “ERR Generating Facility,” “ERR Generating Facilities,” “Project” or “Projects”) sufficient to permit SCE to execute renewable power purchase agreements in substantially the form of SCE’s *Pro Forma* Renewable Power Purchase Agreement (“Renewable PPA”), posted on the SCE RPS Solicitation Website.³ Additionally, SCE is soliciting Proposals to purchase Renewable Energy Credits (“REC”) from SCE using an agreement substantially in the form of the *Pro Forma* REC Sales Confirmation (“REC Purchase Agreement”) posted on the SCE RPS Solicitation Website. The term “*Pro Forma* PPA” refers to the Renewable PPA or the REC Purchase Agreement, as applicable. In addition to negotiating a final *Pro Forma* PPA, SCE is offering a non-negotiable Standard Contract Option, the details of which can be found in Section 4. The term “RPS Solicitation” as used in this Procurement Protocol refers to solicitation for the purchase of Bundled Energy Product as well as solicitation of Proposals to purchase RECs from SCE as the context warrants.

The purpose of this procurement protocol (“Procurement Protocol”) is to:

- (a) Describe the Product for which SCE is soliciting;
- (b) Set forth the requirements of each Proposal submission, including waivers, representations, warranties and covenants deemed made for all purposes as part of the Proposal submission;
- (c) Describe the methods that SCE uses to evaluate each Proposal;
- (d) Document the rights that SCE reserves for itself with regard to the RPS Solicitation; and
- (e) Describe the time frame for the RPS Solicitation.

This Procurement Protocol and its Associated Documents⁴ are available on the RPS Solicitation Website.

² Unless the context otherwise requires, “Seller” or “Sellers” shall include a buyer or buyers in the instance of proposals for the purchase of RECs.

³ For clarity, this RPS Solicitation is not soliciting Proposals for utility-owned, buyout or other forms of SCE-equity (tax or other) ownership of the underlying ERR Generating Facility.

⁴ A List of Associated Documents is found on page iii of this Procurement Protocol.

Capitalized terms used in this Procurement Protocol, but not otherwise defined herein have the meanings set forth in the *Pro Forma* PPA or the California Independent System Operator (“CAISO”) tariff.

1.2 Definition of Products Being Solicited

For a more complete definition and description of Product, SCE encourages all Sellers to review California Public Utilities Commission (“CPUC”) Decision (“D.”) 11-12-052, available at the following link:

[D1112052 Implementing Portfolio Content Categories for the Renewables Portfolio Standard Program](#)

- (a) Bundled Energy Product. Product qualifying as Portfolio Content Category 1 (“Category 1” or “Category 1 Product”),⁵ which includes all electric energy produced by an ERR Generating Facility throughout the Term of the Final Agreement, net of Station Use; all Green Attributes; all Capacity Attributes, if any; and all Resource Adequacy Benefits, if any; generated by, associated with, or attributable to the output of the ERR Generating Facility throughout the Term of the Final Agreement whether such credits or other attributes exist at the time a Final Agreement is executed or are created later during the Term of the Final Agreement.
- (b) Proposals to Purchase RECs. SCE will be selling RECs to interested buyers (“Buyers”). Category 1 offers must include a REC price and an energy price. Category 3 offers must include a REC price.
- (c) As used herein, the term “Final Agreement” refers to any final agreement resulting from the RPS Solicitation.

1.3 Basic Terms and Conditions

For proposals to sell bundled energy product to SCE:

- (a) Except for projects delivering to the Goleta Substation or other area specifically called out by SCE (collectively, “Preferred Areas”), SCE will only consider Proposals to purchase Product from ERR Generating Facilities with initial delivery dates to SCE on **TBD** or later. Sellers must propose Commercial Operation Dates that start on the first day of the month. For projects located in a Preferred Area, SCE will consider proposals with any start date.
- (b) Prior to the start of the Term of the *Pro Forma* PPA, Sellers may, at their discretion, deliver energy, capacity or other attributes of the ERR Generating

⁵ In accordance with Public Utilities Code Section 399.16(b)(1) and D.11-12-052.

Facility (i) through the CAISO Market, (ii) to a balancing authority, or (iii) to a third-party off-taker.

- (c) SCE will consider Proposals from Sellers with ERR Generating Facilities that are located outside the State of California only if they can deliver Product that qualifies as Category 1 Product.
- (d) With respect to any Project, SCE WILL NOT ACCEPT PROPOSALS TO DELIVER PRODUCT AT THE PROJECT'S BUSBAR.

SCE is only soliciting Product from ERR Generating Facilities which possess: (1) a completed Phase II Interconnection Study or equivalent (unless the project is located in a Preferred Area, which, in such case, the projects must have a Phase I study or better),⁶ (2) a signed interconnection agreement, or (3) an equivalent or better interconnection study, agreement, process, or exemption. The interconnection study or agreement (1) must be in the same name as the Seller under the *Pro Forma* PPA, or (2) the sponsor must demonstrate, to SCE's reasonable satisfaction, that sponsor has exclusive rights to the interconnection agreement by means of an unconditional assignment.

- (e) If (1) the California Environmental Quality Act ("CEQA") or the National Environmental Policy Act ("NEPA") applies to the ERR Generating Facility and (2) a lead agency has been designated under the applicable law, then SCE will consider Proposals from such ERR Generating Facilities only if the ERR Generating Facility has achieved, at a minimum, an "application deemed complete" (or equivalent)⁷ status under the land use entitlement process by the agency designated by CEQA or NEPA as the lead agency. Proposals not meeting this requirement will not be given further consideration.
- (f) Sellers may offer any term length. However, at least one Proposal must offer a term length of ten (10) years or less. SCE has a preference for shorter term lengths.
- (g) SCE will accept multiple Proposals for the same Project (e.g., flat vs. escalating pricing for the same Project; five (5)-year vs. ten (10)-year term for the same Project; etc.). Multiple proposals for the same Project shall be considered mutually exclusive.

⁶ For Projects that are utilizing the interconnection study fast track process, SCE will accept either: (1) written evidence from SCE's Grid Interconnection Department that the ERR Generating Facility has passed all fast track screens and no further studies are required; or (2) a completed System Impact Study and Facilities Study (or evidence from Grid Interconnection that the Facilities Study was waived); or (3) a signed interconnection agreement.

⁷ Pursuant to Section 6.1 of D.14-11-042, local government uses the term "application deemed complete" (California Government Code §65943); California Energy Commission uses the term "data adequate" (Title 20 CCR § 1709); Bureau of Land Management uses the term "completed application" (43 CFR 2804.25).

- (h) Sellers may submit a maximum of six (6) different proposals for each Project bid.
- (i) Proposals for Product delivered from ERR Generating Facilities with a Contract Capacity of 500 kW or greater are eligible to participate in this RPS Solicitation.
- (j) SCE intends that the definition of “Site” and “Site Control” not only means the land upon which the ERR Generating Facility is expected to be located, but also encompasses any rights-of-way or other real property rights necessary for Seller to be able to deliver the Product to SCE (e.g., land on which Seller’s generation tie line between the ERR Generating Facility and the Interconnection Point shall be constructed). Seller’s Proposal must demonstrate Site Control or the Proposal will not be given further consideration.
- (k) Seller’s Generating Facility must be a new, existing, or repowered Generating Facility that is an ERR,⁸ unless Seller intends to submit a Proposal for consideration under the Community Renewables program (as defined in Section 4.06), in which case the Generating Facility must be a new Generating Facility that qualifies as an ERR.
 - (i) An existing ERR Generating Facility must be certified by the California Energy Commission (“CEC”) as an ERR or multiple ERRs prior to the Proposal Due Date as set forth in the RPS Solicitation Schedule.
 - (ii) For ERR Generating Facilities not yet on-line and for repowered ERR Generating Facilities, SCE requires Seller to seek CEC “pre-certification” as an ERR prior to the Commercial Operation Date.
- (l) Sellers’ Proposals intending to deliver Bundled Energy Product shall convey to SCE all electric energy, as well as all attributes associated with such electric energy, including, but not limited to, Metered Amounts, Green Attributes, Capacity Attributes, and Resource Adequacy Benefits that are attributable to the ERR Generating Facility as detailed in the Renewable PPA.

For proposals to sell bundled energy product to SCE and proposals to purchase RECs from SCE:

- (m) SCE will only consider Proposals that are substantially complete and include all of the applicable information, representations, warranties, and covenants as

⁸ An ERR is a Generating Facility that meets all the criteria set forth in Public Utilities Code Section 399.12, Public Resources Code Section 25741, and the **Renewables Portfolio Standard Eligibility Guidebook, Ninth Edition** (“CEC RPS Eligibility Guidebook”). The Guidebook can be found by accessing the following link: <http://www.energy.ca.gov/renewables/documents/#rps>.

set forth in this Procurement Protocol and/or the on-line application bidders are required to complete (the “Proposal Form”).

- (n) The primary method for exchange of information or documents concerning this RPS Solicitation, including any such exchange concerning the preparation or submission of Proposals to SCE, will be via the RPS Solicitation Website or other method designated by SCE.

SCE may, in its sole discretion, decline to respond to any correspondence or other inquiry about this RPS Solicitation without liability or responsibility.

- (o) SCE will host a conference to discuss the process with participants. Information on how to attend the conference will be made available on the RPS Solicitation Website.
- (p) In conformance with D.11-12-052, Buyer’s cannot purchase RECs from SCE prior to CPUC approval of the REC Purchase Agreement.
- (q) SCE encourages Women-Owned, Minority-Owned, Disabled Veteran-Owned, Lesbian-Owned, Gay-Owned, Bisexual-Owned, and/or Transgender-Owned Business Enterprises (“Diverse Business Enterprises”) to participate in the RPS Solicitation. Information on SCE’s Supplier Diversity Program can be found on the following SCE website: www.sce.com/sd

CPUC General Order (“GO”) 156 (<http://www.cpuc.ca.gov/PUC/documents/go.htm>) sets the rules governing, among other things, goals, annual reporting and annual planning in the development of programs to increase participation of Diverse Business Enterprises in procurement of contracts from utilities as required by the California Public Utilities Code.

You can help SCE achieve its GO 156 goals in the following ways:

- (i) For qualified Diverse Business Enterprise Sellers (Tier 1 – direct contracting with SCE), ensure you are certified by the CPUC (The Supplier Clearinghouse) (www.thesupplierclearinghouse.com). Disabled Veteran Owned Business Enterprises in California are certified through the California Department of General Services (www.dgs.ca.gov/) and are automatically recognized by The Supplier Clearinghouse.
- (ii) Require that any qualified Tier 2 Diverse Business Enterprises (subcontractors to a Tier 1 Seller) that perform work or deliver materials related to a project that is ultimately under contract with SCE are certified by one of the above mentioned agencies.

Furthermore, as provided in Section 6.3 of GO 156, SCE's Supplier Diversity efforts include encouraging its Sellers to develop plans to utilize Diverse Business Enterprise subcontractors. SCE can help with identifying Diverse Business Enterprises for subcontracting opportunities. In addition, the Renewable PPA includes a requirement to report payments made to Diverse Business Enterprises that supplied goods or services as subcontractors.

A sample list of potential products and services that may be available through Diverse Business Enterprises as subcontractors is provided in the table below. This table is not intended to serve as a comprehensive list of all of the subcontracting opportunities that may be available.

PRE-Commercial Operation Date		POST-Commercial Operation Date	
Products	Services	Products	Services
<ul style="list-style-type: none"> • Environmental Impact Studies • MRO (Balance of Plant: wiring, conduit, steel, concrete, etc.) • Panels • Technology 	<ul style="list-style-type: none"> • Construction • Construction • Consulting • Engineering (Interconnection design, roads/grading, SWPPP, Arc Flash Study, Geotechnical reports, environmental monitoring, etc.) • EPC Contractor • Installation • Land Acquisition • Legal Services • Permitting • Research and Development (R&D) • Site Prep • Transportation 	<ul style="list-style-type: none"> • IT Equipment (Hardware & Software) 	<ul style="list-style-type: none"> • Engineering (Fire protection and Telecommunication) • Facilities Management • IT Support (Hardware & Software) • Janitorial • Large Equipment rentals and operator • Legal Services • Panel Cleaning • Plant Maintenance • Plant Security • Regulatory Reporting Services • Specialty/Admin Staffing • Water Treatment & Testing

This list was compiled with input from SCE, San Diego Gas & Electric and Pacific Gas and Electric. Please note that there may be other potential products and services that may qualify.

*** End of ARTICLE ONE ***

ARTICLE TWO. PRODUCT DELIVERY AND PRICE

2.1 ERR Generating Facility Location and Interconnection

Seller's ERR Generating Facility may be located either:

(a) In-State

An ERR Generating Facility is considered "In-State" if such ERR Generating Facility's first point of interconnection is, or will be, to the transmission or distribution system of a California Balancing Authority ("CBA").

(b) Out-of-State

An ERR Generating Facility is considered "Out-of-State" if such ERR Generating Facility's first point of interconnection is not, or will not be, to the transmission or distribution system of a CBA but the ERR Generating facility is delivering Product. Seller shall comply with all requirements pertaining to "Out-of-State Facilities" as set forth in the CEC RPS Eligibility Guidebook, including, but not limited to, ensuring that:

- (i) The ERR Generating Facility is located so that its first point of interconnection is, or will be, to the Western Electricity Coordinating Council transmission system;
- (ii) The ERR Generating Facility does not cause or contribute to any violation of a California environmental quality standard or requirement within California; and
- (iii) The ERR Generating Facility participates in an RPS tracking and verification system approved by the CEC (including WREGIS and NERC E-Tags).

2.2 Delivery of Bundled Energy Product

(a) In-State

For In-State ERR Generating Facilities that are, or will be, interconnected to the CAISO, the Delivery Point must be the point where the ERR Generating Facility connects to the CAISO Controlled Grid.

For In-State ERR Generating Facilities that are, or will be, interconnected to a CBA other than the CAISO, the Delivery Point⁹ must be the intertie point where Seller's Transmission Provider ties to the CAISO ("CAISO Intertie").

⁹ The Delivery Point is subject to SCE's approval in its sole discretion.

(b) Out-of-State

Seller must reasonably demonstrate to SCE as part of its submitted Proposal package that the output of the proposed Out-of-State ERR Generating Facility can in fact be scheduled on an hourly or sub-hourly basis into a CBA, without, substituting electricity from another source, or dynamically transferred into a CBA. Such reasonable demonstration may include, for example, a Dynamic Scheduling Host Balancing Authority Operating agreement as defined in the CAISO Tariff.

Seller will be required to have firm transmission rights to the Delivery Point within the CAISO or to the respective CAISO Intertie for the duration of the term of the Final Agreement.

2.3 Existing ERR Generating Facility, Existing Power Purchase Agreement

An existing ERR Generating Facility with an existing power purchase agreement must submit a Proposal that:

- (a) States the full name of the ERR Generating Facility as well as the contract identification number, Qualifying Facilities (“QF”) number, or any other information necessary for SCE to identify the ERR Generating Facility;
- (b) States the date on which the Seller believes that the existing power purchase agreement will terminate;
- (c) Demonstrates to SCE’s reasonable satisfaction that Seller’s existing power purchase agreement will terminate, by its own terms, without further action of the parties thereto, prior to the date on which deliveries from the existing ERR Generating Facility will commence under Seller’s Proposal.

For Projects that are currently operating under a QF Power Purchase Agreement (“QF PPA”), the Interconnection Facilities Agreement (the “IFA”) is usually an integral part of the QF PPA, and will not survive the expiration of the QF PPA. Proposals that are intended to be end-to-end with an expiring QF PPA must undergo a technical review and convert to Wholesale Distribution Access Tariff agreement or other interconnection agreement. Sellers are responsible to ensure that they meet their delivery obligations under any agreement ultimately signed as a result of this Solicitation keeping in mind that Sellers may be obligated to undergo a lengthy review process when converting from a QF PPA. Sellers should check with their grid interconnection manager for more details regarding their specific projects.

2.4 Product Price or Contract Price

SCE intends to purchase Bundled Energy Product from those Sellers that have executed a Renewable PPA with SCE at the Product Price, in \$/MWh, as defined in the Renewable PPA and further outlined below.

SCE intends to sell REC Product to those Buyers that have executed a REC Purchase Agreement with SCE at the Contract Price, in \$/MWh, as defined in the REC Purchase Agreement and further outlined below.

The Product Price or Contract Price submitted by a Seller or Buyer as part of its Proposal must:

- (a) Conform with the pricing requirements in the *Pro Forma* PPA;
- (b) Assume, if applicable, posting Development Security, Performance Assurance and any other security as required by the *Pro Forma* PPA;
- (c) If applicable, include awards, subsidies, tax credits, grants, etc.;
- (d) If applicable, assume the cost to dynamically schedule or firm and shape the Product into the CAISO at the Delivery Point; and
- (e) If applicable, assume the cost of any firm transmission rights to deliver the Product into the CAISO at the Delivery Point.

SCE will not accept an indexed pricing Proposal.

For all Bundled Product except for Bundled product combined with storage, Seller must submit its price assuming the Product Price will be adjusted by SCE in each settlement interval in each Time of Delivery Period by the Product Payment Allocation Factors set forth in Exhibit J to the Renewable PPA. Pricing for Bundled Product combined with storage will not be adjusted by the Product Allocation Factors. Sellers will receive the contract price for all Time of Delivery periods.

2.5 Use of the Mohave SO₂ Allowance Revolving Fund Memorandum Account

Proposals associated with the Hopi Tribe and/or Navajo Nation that qualify under the requirements of D.13-02-004, may be entitled to use available funds from the Mohave SO₂ Allowance Revolving Fund Memorandum Account to meet the Development Security obligations under the Renewable PPA, subject to the provision of the necessary documentation and assurances in the Final Agreement.

2.6 SCE Affiliates

SCE affiliates are permitted to participate in this RPS Solicitation. Seller must disclose whether it is an SCE affiliate.

*** End of ARTICLE TWO ***

ARTICLE THREE. RPS SOLICITATION SCHEDULE AND PROPOSAL SUBMITTAL PROCESS

3.1 RPS Solicitation Schedule

Dates*	Event
TBD	SCE releases 2018 RPS Solicitation.
TBD	SCE hosts a Bidders' Conference.
TBD	Sellers to provide their full Proposal e-Binder to SCE via the RPS Solicitation Website or other method as determined by SCE.
TBD	<p>SCE submits Short-List to CPUC and Procurement Review Group ("PRG").</p> <p>Latest date SCE advises all Sellers on the status of their Proposals relative to SCE's Short-List.</p> <p>For Sellers whose Proposals have been named to the Short-List, the negotiations period begins.</p>
TBD	SCE and Short-Listed Sellers complete negotiations for the Final Agreements.
TBD	SCE signs the Final Agreement
TBD	SCE submits the Final Agreements by way of Advice Letters to the CPUC for approval.

* SCE reserves the right to make changes to the above schedule.

3.2 Proposal Instructions

- (a) Seller must input information and upload all of the documents described in this Section for each Proposal. The documents to be uploaded can be downloaded from the SCE RPS Solicitation Website.
- (b) The RPS Solicitation Website utilizes a web-based information-input system where all required information and documents are submitted to SCE by filling out on-line forms and uploading documents. When filling out the on-line Proposal Form, the website automatically checks portions of the data as it is inputted by Seller. The Proposal Form cannot be saved and uploaded unless the Proposal Form is complete. Drop-down menus and automatic re-direction

to appropriate forms are incorporated to guide the Seller through the process.

Input sections for project-specific information are provided. Further, separate input sections for Proposals associated with that specific project are provided. Sellers may use these forms to input multiple, distinct Proposals associated with a specific project.

The Proposal Form has “check the box” attestations that Seller must acknowledge. If Seller is unwilling to make the required attestations by checking the box, Seller cannot participate in the RPS Solicitation.

- (c) Except for REC Product, provisions have been made to allow Seller to mark Proposals they have successfully completed as mutually exclusive. Seller may not offer mutually exclusive proposals for REC Product.
- (d) Seller’s Proposal(s) must be complete in all respects and uploaded using the RPS Solicitation Website.

Important: *Seller is responsible for the accuracy of all information delivered to SCE through the RPS Solicitation Website. SCE will not alter, update, or change any information submitted to the RPS Solicitation Website. Seller risks disqualification if delivered information is incorrect or is in conflict with uploaded documents. Seller is advised to use care when assembling and delivering the required information.*

- (e) Proposals that are incomplete in any way or are delivered to SCE by any means other than uploaded through the RPS Solicitation Website will be rejected. Printed copies of Proposals, as well as electronic copies via CD, DVD, or flash drive, will not be accepted.
- (f) The Proposal Form along with the completed and uploaded documents set forth below make up the “Proposal e-Binder.” Proposal e-Binders must be completed and uploaded by the Proposal Due Date set forth in this document. The date and time set for submission of the Proposal e-Binders will be strictly enforced. Late submissions will be rejected.
- (g) Along with the Proposal Form, Seller must complete and upload to the RPS Solicitation Website **all of the following documents**:¹⁰
 - (i) A **Proposal Structure Letter** (there is no template for this document). This document should include the following, as applicable:

¹⁰ Except for the proposal structure letter, interconnection documents, the environmental review documents, and the project boundary documents, forms for all of these documents are posted on the RPS Solicitation Website. Not all of these requirements are applicable to existing projects exercising the Standard Contract Option (see Section 4).

- Introduction of the entities that comprise the Seller.
- Description of the Project. For bundled sales product, this includes Project location, where you are in the permitting and interconnection process, any challenges or issues and other information relevant to the Project.
- Summary of the Proposal

Additionally, The Proposal Structure Letter must include:

- (ii) **Workforce Development:** In conformance with the CPUC “2016 Renewables Portfolio Standard Procurement Plans, dated May 17, 2016” (‘ACR’)¹¹, Sellers shall provide information and, where appropriate, documentation, as to the Project’s expected contribution to employment growth both in the construction phase of the Project and after construction is completed. Sellers submittal should include, without limitation, the number and type of jobs created and from what geographic region the work force is expected to come from. *{SCE Note: Does not apply for offers to purchase REC Product}*
- (iii) **Disadvantaged Communities:** In compliance with the ACR, Sellers shall identify any Project offered that will give environmental or economic benefit to a community afflicted with poverty or high unemployment, or that suffers from high emission levels of toxic air contaminants, criteria air pollutants, and greenhouse gases. These communities may be identified using the census tracts within SCE’s service territory identified in the Excel file posted to the RPS Solicitation Website. *{SCE Note: Does not apply for offers to purchase REC Product}*
- (iv) A fully executed **Officer’s Certificate** – this document, signed by an officer of either the sponsor or project company, signifies Seller’s agreement to certain conditions including, without limitation: i) an attestation that they have reviewed the relevant documents and is providing the proposal in good faith; ii) an attestation that Seller has site control *{SCE Note: Does not apply for offers to purchase REC Product}*; and iii) an attestation that they will not engage in collusion or other unlawful or unfair business practices in connection with the RPS Solicitation.

- **THIS DOCUMENT MUST BE SIGNED AND UPLOADED WITHOUT MODIFICATION.**

¹¹ *Id.* at page 14.

- **ONE OFFICER’S CERTIFICATE SHOULD BE UPLOADED FOR EACH PROJECT.**
- (v) If not submitted through a previous solicitation, a fully completed and executed **Evergreen Non-Disclosure Agreement (“NDA”)** (this must be uploaded as a locked MS Word document);
- **THIS DOCUMENT MUST BE SIGNED AND UPLOADED WITHOUT MODIFICATION.**
 - **THE EVERGREEN NDA IS INTENDED TO COVER ALL PROJECTS SUBMITTED BY SELLER OR BUYER. ONLY ONE SIGNED EVERGREEN NDA SHOULD BE UPLOADED.**
- (vi) A fully completed **Project Viability Calculator** (This must be uploaded for each project as a password-protected MS Excel file); *{SCE Note: Does not apply for offers to purchase REC Product}*
- (vii) A fully completed **Generation Profile** (This must be uploaded for each project as a password-protected MS Excel file); *{SCE Note: Does not apply for offers to purchase REC Product}*
- (viii) A completed Geographic Information System file of the project boundaries and associated gen-tie (“Project Boundary File”) as required by the CPUC. *{SCE Note: Does not apply for offers to purchase REC Product}*
- (ix) For each project, a copy of the letter from the lead land use permitting agency documenting that the land use permit application for the project has been “deemed complete”¹² to begin the permitting review process (“**Environmental Review Letter**”). *{SCE Note: This requirement applies if (1) the California Environmental Quality Act or the National Environmental Policy Act applies to the ERR Generating Facility and (2) a lead agency has been designated under the applicable law. Does not apply for offers to purchase REC Product.}*

Important: *SCE will not accept the Evergreen NDA or the Officer’s Certificate if it has been changed to a different format or otherwise altered in*

¹² See Note 8.

any unauthorized way. Seller is required to fill out the locked MS Word Template only in the spaces provided and upload the resulting locked MS Word document. Please sign and then scan and return ONLY the signature pages of each document.

- (h) Once SCE has completed its review of the above submittals, SCE may ask Seller to provide the following:
 - (i) Copies of the **Generating Facility’s interconnection studies** and/or interconnection agreement.; and
 - (ii) A fully executed **Consent for Release of Interconnection Related Information** (this must be uploaded as a locked MS Word document);
{SCE Note: This document only pertains to Projects located in the SCE Service Territory. Disregard this requirement if your Project is located outside of the SCE Service Territory.}

For all interconnection and environmental review documents described above, SCE will accept documents uploaded to the RPS Solicitation Website in WORD or the PDF file format. Whenever possible, please upload these documents as searchable PDF files so that SCE may locate particular words or phrases within the respective files.

If Seller is unresponsive to SCE’s requests for documentation, then the Proposals from Seller may be disqualified from further consideration.

3.3 The Pro Forma PPA¹³

For the delivery of Bundled Energy Product, SCE’s Renewable PPA is structured under the assumption that:

- (a) Seller’s Proposal is based upon the green-field development of a new ERR Generating Facility,
- (b) The ERR Generating Facility’s first point of interconnection will be with the CAISO, and
- (c) SCE will be the Scheduling Coordinator.

SCE may serve as Scheduling Coordinator for any existing or proposed In-State ERR Generating Facility that is eligible to participate in this RPS Solicitation. Seller must indicate in its Proposal whether Seller wishes SCE to

¹³ Attached as Associated Documents A and B.

serve as the Scheduling Coordinator. **SCE DOES NOT SERVE AS SCHEDULING COORDINATOR FOR OUT-OF-STATE PROJECTS.**

3.4 Resource Adequacy Benefits

For the delivery of Bundled Energy Product, Seller must offer an ERR Generating Facility based on an interconnection assuming either Energy Only Deliverability Status (“EO”), or such proposals that include the conferment by the CAISO of FCDS, Partial Capacity Deliverability Status (“PCDS”) or Interim Deliverability Status (“IDS”) (collectively, “Capacity Deliverability Status”),¹⁴ and a CAISO Net Qualifying Capacity (“NQC”) assignment.

EO Projects will be deemed to have an NQC of zero and, therefore, cannot be considered to be a Resource Adequacy Resource.

Capacity Deliverability Status Projects are considered to be a Resource Adequacy Resource and are assigned a Qualifying Capacity by the CPUC. The Qualifying Capacity may be reduced by the CAISO as applicable based on: (i) testing and verification; (ii) application of performance criteria; and (iii) deliverability restrictions, yielding the NQC assignment conferred on the Project by the CAISO.

For Capacity Deliverability Status Projects, Seller must indicate a date upon which they anticipate the CAISO will confer on the Project Capacity Deliverability Status. Such date (the “RA Guarantee Date”) may not be earlier than, but may be later than, a date estimated in the Phase II Interconnection Study or equivalent, or interconnection agreement, at Seller’s discretion.¹⁵

For Capacity Deliverability Status Projects, if the Project’s NQC assignment is less than the Qualifying Capacity or is otherwise reduced by the CAISO for any reason, then SCE shall continue to pay to Seller the Product Price. However, Seller must pay to SCE liquidated damages as set forth in Section 3.02 of the Renewable PPA.

¹⁴ Generating Facilities interconnecting at the distribution system level may be eligible for FCDS through the CAISO’s distributed generation deliverability assessment. The CAISO is working with utility distribution companies assigning FCDS to eligible distributed generation facilities pursuant to the CAISO Tariff Section 40.4.6.3 on an annual basis. The CAISO has posted these distributed generation deliverability assessment seasonal results to its website at <http://www.caiso.com/Documents/SystemRoot/PLANNING>. Additional information is also available on SCE’s website at <https://www.sce.com/wps/portal/home/regulatory/open-access-information>.

¹⁵ See Section 3.02 of the Renewable PPA for additional details.

3.5 Independent Evaluator

SCE has engaged an Independent Evaluator (“IE”) to evaluate and report on the solicitation, evaluation, selection, and negotiation process for this RPS Solicitation.

The Independent Evaluator will review all Proposals and will have the opportunity to be present at meetings and conference calls between SCE and Short-Listed Sellers.

The Independent Evaluator will have full access to the RPS Solicitation Website and all the e-Binders and correspondence uploaded by Sellers.

The Independent Evaluator will periodically make presentations to SCE, the CPUC and the PRG in order to ensure that the RPS Solicitation process remains open, fair and transparent.

*** *End of ARTICLE THREE* ***

ARTICLE FOUR. STANDARD CONTRACT OPTION

4.1 Explanation of the Standard Contract Option

As part of the RPS Solicitation, SCE is offering a “Standard Contract Option” using the streamlined Renewable Auction Mechanism (“RAM”) procurement tool authorized in D.14-11-042. The Standard Contract Option is available for Proposals offering Bundled Energy Product with a first point of interconnection to the CAISO, and not dynamically scheduled ERR Generating Facilities.

The Standard Contract Option provides for the rapid deployment of Projects by avoiding the contract negotiation process and expediting the CPUC approval process for any Final Agreements. Sellers have the option to participate in the Standard Contract Option by checking a box in the Proposal Form. Subject to SCE’s selection of the Proposal and its agreement that a standard contract is appropriate for the Proposal, Seller will be offered a standard contract in the form of the Renewable PPA with no changes or negotiations.¹⁶ Once executed, these standard contracts will be submitted via a Tier 2 Advice Letter to the CPUC for approval.

Where circumstances dictate, the Standard Contract Option may not be the appropriate contracting option. Therefore, the Standard Contract Option can only be applied if SCE, in its sole discretion, determines that the Standard Contract Option is appropriate for a specific Project.

SCE will establish its Short-List based on Net Market Value and other criteria as set forth in Article Five, below. In order to be selected, the value of a standard contract project must rank within the range established for the entire Short-List.

In compliance with D.14-11-042, Projects that select the Standard Contract Option must commence commercial operation within 36 months of CPUC Approval of the executed Final Agreement (with a possible six-month extension for regulatory delay). Seller’s Proposal(s) must include sufficient documentation to support the project meeting the milestones to achieve commercial operation within the 36 months.

For the Standard Contract Option, Seller must comply with the requirements of Section 3.02.

SCE will seek approval of Standard Contract Option projects that result in Final Agreements through the Tier 2 Advice Letter process which allows for a faster anticipated CPUC approval time.

*** End of ARTICLE FOUR ***

¹⁶If SCE uses the Standard Contract Option for Green Rate procurement, a representation and warranty is included in the Renewable PPA, only applicable to Green Rate Projects, obligating Sellers to comply with the Green-e® National Energy Standard.

ARTICLE FIVE. EVALUATION OF PROPOSALS

5.1 Proposal Evaluation Overview

For Proposals to purchase RECs, SCE will evaluate and rank all proposals received taking into consideration pricing, number of RECs required by the Buyer, vintage and other relevant factors.

SCE evaluates and ranks Proposals for Bundled Product based on least-cost, best-fit (“LCBF”) principles that comply with criteria set forth by the CPUC in D.03-06-071 and D.04-07-029 (“LCBF Decisions”) and other CPUC decisions on the investor-owned utilities’ RPS Procurement Plans.¹⁷

The LCBF analysis evaluates both quantitative and qualitative aspects of each Proposal to estimate its value to SCE’s customers and its relative value in comparison to other Proposals.

Prior to receiving Proposals, SCE finalizes criteria with the IE to determine which attributes make Proposals clear outliers. SCE then finalizes the major assumptions and methodologies that drive valuation.

Once Proposals are received, SCE will determine which Proposals are clear outliers. For Proposals deemed clear outliers, SCE concludes any further review. SCE will then begin a review for completeness and conformity with the Procurement Protocol for the remaining Proposals. SCE will evaluate Proposals utilizing information that is inputted into the Proposal Form. Supporting documents, such as the Proposal Structure Letter, Interconnection Documents or any other supporting information are for informational purposes only and **ARE NOT** relevant inputs related to this stage of the Proposal evaluation process. SCE’s review includes an initial screen of the Proposal Form for required submission criteria. Proposals that are substantially complete but lacking required information are allowed a reasonable cure period to remedy any deficiencies. Following this check for conformity, SCE conducts an additional review to determine the reasonableness of Proposal parameters such as generation profiles and capacity factors. SCE works directly with Sellers to resolve any issues and ensure the data is ready for evaluation.

After these reviews, SCE performs a quantitative assessment of each Proposal and subsequently ranks them based on the Proposal’s benefit and cost relationship. Specifically, the total benefits and total costs are used to calculate the net levelized cost or “Net Market Value” for each complete and conforming Proposal. Benefits are

¹⁷ See also Cal. Pub. Util. Code § 399.13(a)(4)(A).

comprised of separate capacity, energy, and congestion components, while costs include the contract payments, debt equivalents, integration cost, congestion cost, and transmission cost. SCE discounts the monthly benefit and cost streams to a common base date. SCE also normalizes the net cost or benefit data by MWh generation. The result of the quantitative analysis is a merit-order ranking of all complete and conforming Proposals' Net Market Values that help define the preliminary Short-List.

Following the quantitative analysis, SCE conducts an assessment of the most competitive Proposals' qualitative attributes. SCE utilizes the Project Viability Calculator to assess certain factors including the company/development team experience, project technology, project financing and development milestones. Additional attributes such as nominal contract payments, contribution to other SCE program goals, transmission area, prior experience with project developers/sellers, seller concentration, and resource diversity are also considered in the qualitative analysis. If a Community Renewables procurement need is identified, eligibility for the Community Renewables program and Community Renewables Environmental Justice Resource status will also be considered. These qualitative attributes are then considered to either eliminate or add Proposals to the Short-List, or to determine tie-breakers, if any.

Following its analysis, SCE consults with its PRG regarding the Short-List and specific evaluation criteria. SCE will then develop a final Short-List and negotiate with the Short-Listed Sellers after notification of Short-Listing.

SCE, in its sole discretion, reserves the right to enter into Final Agreements with as many Sellers as SCE chooses, including the right to not enter into any Final Agreements at all. Whether a Proposal selected through this process results in an executed contract depends on the outcome of negotiations between SCE and Sellers and where Seller's Proposal pricing ranks based on the criteria set forth herein. Periodically, SCE updates the PRG regarding the progress of negotiations. Finally, SCE executes contracts and submits them to the CPUC for approval via advice letter filings.

For a more detailed discussion of the LCBF methodology, please see the LCBF Methodology document located on the SCE RPS Solicitation Website.

*** End of ARTICLE FIVE ***

ARTICLE SIX. SHORT-LISTING

6.1 Minimum Requirements

Sellers are required to follow all of the instructions contained in this Procurement Protocol and the Associated Documents and subsequent amendments in order to be eligible to compete in the solicitation process.

6.2 Upon Notification of Selection for the SCE Short-List

- (a) If SCE notifies Seller that its Proposal has been selected for SCE's Short-List and Seller would like to continue in the solicitation process, Seller must provide to SCE a **Red-line to the Pro Forma PPA or REC Purchase Agreement** showing changes Seller wishes to negotiate with SCE. The *Pro Forma* PPA and REC Purchase Agreement are located on the SCE RPS Solicitation Website. Sellers are reminded that a finite amount of time is allotted for the negotiation of the Final Agreement as outlined in the RPS Solicitation Schedule.
- (b) As soon as possible after Short-List notification, if required, Seller shall submit to SCE all the elements of Exhibit B to the Renewable PPA as outlined in the Renewable PPA and include:

ERR Generating Facility Description

- ✓ Name and address of the ERR Generating Facility;
- ✓ General description and location of the Site;
- ✓ Specific description of the technology; and
- ✓ Table containing detailed project specifications and exact counts as applicable.

Site Plan Drawing

- ✓ Plan view of the ERR Generating Facility; and
- ✓ Major equipment components in their exact locations.

Single Line Drawing

- ✓ Up-to-date, stamped by a Professional Engineer whose certification is in force, and match the latest project characteristics: 1. Equipment clearly illustrated; 2. Electrical system; 3. Generators; 4. Unit and service transformers; 5. Interconnection transformers; 6. Metering; 7. Breakers; and 8. Disconnects;
- ✓ A station service transformer on the project's side of the meter;
- ✓ For solar PV projects, each typical solar array must be shown or described; and
- ✓ The Interconnection Point, as defined in the PPA clearly illustrated.

Site Map

Legal Description of the Site

- ✓ Derived from the registered deed for the property.
- ✓ APNs for the Project's site.

- (c) If Seller's Proposal has been selected for SCE's Short-List and Seller does not wish to continue in the 2018 solicitation process, SCE requests that Seller withdraw its Proposal from this RPS Solicitation in writing (via the RPS Solicitation Website) within ten (10) Business Days after the Short-List notification from SCE.
- (d) If a Seller's Proposal has *not* been selected for SCE's Short-List, SCE will notify Seller (via the RPS Solicitation Website) no later than ten (10) Business Days following the date that SCE notifies all Sellers selected for the Short-List of their selection.
- (e) SCE, in its sole discretion, reserves the right to execute Final Agreements with as many Sellers or Buyers as SCE chooses including the right to choose not to enter into any Final Agreements. SCE may exercise this right at any time including, without limitations, prior to, during or at the conclusion of negotiations with shortlisted projects.

*** End of ARTICLE SIX ***

ARTICLE SEVEN.

SELLER'S REPRESENTATIONS AND WARRANTIES

- 7.1 By submitting the Seller's Officer's Certificate to SCE as part of a complete and conforming Proposal package, the Seller represents and warrants that its offered Product Price or Contract Price assumes that Seller will post Development Security, Performance Assurance or other security, as applicable, equal to the amounts specified in the *Pro Forma* PPA.

*** *End of ARTICLE SEVEN* ***

ARTICLE EIGHT. REGULATORY APPROVAL

8.1 CPUC and FERC Approvals

SCE's obligations to purchase Product or sell RECs under a Final Agreement will only become effective upon CPUC Approval.

In the event a transaction occurs between SCE and any of its Affiliates, such Final Agreement may also require FERC approval. In such case, SCE's obligations to purchase power under such Final Agreement will only become effective upon approval by both the CPUC and FERC.

8.2 Support for Regulatory Purposes

SCE may request that Seller provide updates of any information requested in this RPS Solicitation for purposes of filing applications or advice letters with the CPUC for approval of any Final Agreement.

*** End of ARTICLE EIGHT ***

ARTICLE NINE. CONFIDENTIALITY, CONDUCT, AND SAFETY

9.1 Confidentiality

Sellers are required to enter into the Evergreen Non-Disclosure Agreement with SCE in the form posted on the SCE RPS Solicitation Website.

9.2 Conduct

It is expected that the Parties will act in good faith in their dealings with each other with respect to this RPS Solicitation. Seller may not engage in Communications (as defined in Article Ten) with any other Seller in the RPS Solicitation concerning the price terms contained in their Proposal or related matters.

9.3 Safety

Seller must develop a written plan for the safe construction and operation of the ERR Generating Facility as set forth in the Renewable PPA.

*** *End of ARTICLE NINE* ***

ARTICLE TEN. WAIVERS AND RESERVATION OF RIGHTS

10.1 Termination of RPS Solicitation

SCE reserves the right at any time to modify any dates specified in this RPS Solicitation or abandon this RPS Solicitation without notice, without assigning any reasons, and without liability of Edison International, SCE or any of their subsidiaries, affiliates or representatives to any Seller.

SCE will not be deemed to have accepted any Proposal, and will not be bound by any term thereof, unless and until authorized representatives of SCE and Seller execute a Final Agreement and, if appropriate, related collateral and other required agreements.

In the event that SCE terminates this RPS Solicitation, Seller shall be responsible for any expenses incurred by Seller as a result of this RPS Solicitation.

10.2 Release of SCE for any Delays

Seller acknowledges that except for SCE's obligation to submit a fully executed Final Agreement to the CPUC for approval, Seller bears sole responsibility for submitting all applications and obtaining all permits, leases or mortgages, and interconnection, financing and other agreements necessary for Seller to perform under a Final Agreement.

Seller further acknowledges and agrees that SCE shall have no liability for the:

- (a) Time required to complete any studies, obtain any required permits for ERR Generating Facility operation, or enter into any agreements discussed or contemplated under this RPS Solicitation (including without limitation interconnection studies, leases, mortgages, financing or permits);
- (b) Time required to perform construction for Network Upgrades necessary to meet the Commercial Operation Deadline;
- (c) Time to construct the ERR Generating Facility;
- (d) Time required to acquire any environmental permits to construct or operate, including acquisition of any emission credits required by law or regulation; or
- (e) Failure to reach agreement on, or time to reach agreement regarding, the use of SCE property for the Site.

10.3 Waived Claims

By submitting a Proposal, Seller knowingly, voluntarily, and completely waives any rights under statute, regulation, state or federal constitution or common law to assert any claim, complaint or other challenge in any regulatory, judicial or other forum,

including without limitation, the CPUC (except as expressly provided below), the FERC, the Superior Court of the State of California (“State Court”) or any United States District Court (“Federal Court”) concerning or related in any way to the RPS Solicitation or this Procurement Protocol, including all exhibits, attachments, and appendices thereto (“Waived Claims”). Seller further expressly acknowledges and consents that if it asserts any Waived Claim at the CPUC, FERC, State Court or Federal Court, or otherwise in any forum, to the extent that Seller’s Proposal has not already been disqualified, SCE is entitled to automatically disqualify this Proposal from further consideration in the RPS Solicitation or otherwise, and further, SCE may elect to terminate the RPS Solicitation.

By submitting a Proposal, Seller further agrees that the sole forum in which Seller may assert any challenge with respect to the conduct or results of the RPS Solicitation is at the CPUC. Seller further agrees that: (1) the sole means of challenging the conduct or results of the RPS Solicitation is a complaint filed under Article 3, Complaints and Commission Investigations, of Title 20, Public Utilities and Energy, of the California Code of Regulations, (2) the sole basis for any such protest shall be that SCE allegedly failed in a material respect to conduct the RPS Solicitation in accordance with this Procurement Protocol; and (3) the exclusive remedy available to Seller in the case of such a protest shall be an order of the CPUC that SCE again conduct any portion of the RPS Solicitation that the CPUC determines was not previously conducted in accordance with this Procurement Protocol (including any Associated Documents). Seller expressly waives any and all other remedies, including, without limitation, compensatory and/or exemplary damages, restitution, injunctive relief, interest, costs and/or attorneys’ fees. Unless SCE elects to do otherwise in its sole discretion, during the pendency of such a protest the RPS Solicitation and any related regulatory proceedings related to the RPS Solicitation will continue as if the protest had not been filed, unless the CPUC issues an order suspending the RPS Solicitation or SCE has elected to terminate the RPS Solicitation.

Seller further acknowledges and agrees that if Seller asserts any Waived Claim, SCE shall be entitled to seek immediate dismissal of Seller’s claim, complaint or other challenge, with prejudice, by filing a motion to dismiss (or similar procedural device) supported by the language in this Article Nine and that Seller will not challenge or oppose such a request for dismissal. Seller further acknowledges and agrees that if it asserts any Waived Claim, and if SCE successfully has that claim dismissed or transferred to the CPUC, Seller shall pay SCE’s full costs and expenses incurred in seeking such dismissal or transfer, including reasonable attorneys’ fees.

Seller agrees to indemnify, defend and hold harmless SCE from any and all claims by any other Seller asserted in response to the assertion of any Waived Claim by Seller or as a result of a Seller’s protest to a filing at the CPUC resulting from the RPS Solicitation.

Except as expressly provided in this Procurement Protocol, nothing in the Procurement Protocol, including Seller's waiver of any Waived Claims as set forth above, shall in any way limit or otherwise affect the rights and remedies of SCE.

*** *End of ARTICLE TEN* ***

ARTICLE ELEVEN. COMMUNICATIONS

- 11.1 For purposes of this RPS Solicitation, “Communications” means the exchange of any material information by electronic, written, oral or other means other than as expressly provided for herein.

All Communications concerning this RPS Solicitation, including Communications concerning the preparation of Proposals or other submissions to SCE related to the RPS Solicitation, should be submitted to SCE via the RPS Solicitation Website.

SCE may, in its sole discretion, decline to respond to any correspondence or other inquiry without liability or responsibility.

**** End of ARTICLE ELEVEN ****

ARTICLE TWELVE. SCE RIGHTS AND DOCUMENT CONFLICTS

12.1 SCE's Rights

SCE may, at its sole discretion, enter into Final Agreements with one or more entities submitting Proposals that will provide the best value to SCE's customers considering a variety of factors.

SCE reserves the right to reject any Proposal at any time on the grounds that it does not conform to the terms and conditions of this Procurement Protocol.

SCE also retains the right, in its sole judgment, to:

- (a) Subject to D.14-11-042, modify this Procurement Protocol, and any of the Associated Documents, as it deems necessary;
- (b) Condition SCE's acceptance of any selected Proposal on a Seller's agreement to modifications thereto including any modifications that may be recommended by SCE's PRG; and
- (c) Determine what is or is not "reasonable," as this term is used within this Procurement Protocol.

12.2 Document Conflicts

In the event of any conflict between terms contained in this Procurement Protocol or any of the Associated Documents, the conflict will be resolved by the following priority of documents:

- (a) The *Pro Forma* PPA or REC Purchase Agreement;
- (b) The CAISO Tariff; and
- (c) This Procurement Protocol;

Notwithstanding the foregoing, if a Final Agreement is executed between SCE and Seller, it will have precedence over the documents listed above.

*** *End of ARTICLE TWELVE* ***

PUBLIC APPENDIX H.2
Redline of 2018 Procurement Protocol



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~~2017~~

2018

Request for Proposals
from
Eligible Renewable Energy Resource Suppliers
for
Renewable Products

Procurement Protocol

Posted TBD

~~2016~~2018 Request for Proposals from Eligible Renewable Energy Resource Suppliers for Renewable Products

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LIST OF ASSOCIATED DOCUMENTS

A. *PRO FORMA* RENEWABLE POWER PURCHASE AGREEMENT

B. *PRO FORMA* REC SALES CONFIRMATION

*All of the above documents may be located and downloaded from the **RPS Solicitation Website** which may be found here: <https://sعرps.accionpower.com>¹*

¹ All references to the RPS Solicitation Website herein refer to this website location or other location as may be determined by SCE and communicated to the participants.

ARTICLE ONE.

GENERAL INFORMATION

1.1 Introduction

In this ~~2017~~2018 Renewables Portfolio Standard Request for Proposals (“RPS Solicitation”), Southern California Edison Company (“SCE”) is soliciting proposals (“Proposal” or “Proposals”) from bidders (“Seller” or “Sellers”)² to supply Bundled Energy Product (as defined in Section 1.02 and referred to herein as “Product”) from Eligible Renewable Energy Resources (“ERR,” “ERR Generating Facility,” “ERR Generating Facilities,” “Project” or “Projects”) sufficient to permit SCE to execute renewable power purchase agreements in substantially the form of SCE’s *Pro Forma* Renewable Power Purchase Agreement (“Renewable PPA”), posted on the SCE RPS Solicitation Website.³ Additionally, SCE is soliciting Proposals to purchase Renewable Energy Credits (“REC”) from SCE using an agreement substantially in the form of the *Pro Forma* REC Sales Confirmation (“REC Purchase Agreement”) posted on the SCE RPS Solicitation Website. The term “*Pro Forma* PPA” refers to the Renewable PPA or the REC Purchase Agreement, as applicable. In addition to negotiating a final *Pro Forma* PPA, SCE is offering a non-negotiable Standard Contract Option, the details of which can be found in Section 4. The term “RPS Solicitation” as used in this Procurement Protocol refers to solicitation for the purchase of Bundled Energy Product as well as solicitation of Proposals to purchase RECs from SCE as the context warrants.

The purpose of this procurement protocol (“Procurement Protocol”) is to:

- (a) Describe the Product for which SCE is soliciting;
- (b) Set forth the requirements of each Proposal submission, including waivers, representations, warranties and covenants deemed made for all purposes as part of the Proposal submission;
- (c) Describe the methods that SCE uses to evaluate each Proposal;
- (d) Document the rights that SCE reserves for itself with regard to the RPS Solicitation; and
- (e) Describe the time frame for the RPS Solicitation.

This Procurement Protocol and its Associated Documents⁴ are available on the RPS Solicitation Website.

² Unless the context otherwise requires, “Seller” or “Sellers” shall include a buyer or buyers in the instance of proposals for the purchase of RECs.

³ For clarity, this RPS Solicitation is not soliciting Proposals for utility-owned, buyout or other forms of SCE-equity (tax or other) ownership of the underlying ERR Generating Facility.

⁴ A List of Associated Documents is found on page iii of this Procurement Protocol.

Capitalized terms used in this Procurement Protocol, but not otherwise defined herein have the meanings set forth in the *Pro Forma* PPA or the California Independent System Operator (“CAISO”) tariff.

1.2 Definition of Products Being Solicited

For a more complete definition and description of Product, SCE encourages all Sellers to review California Public Utilities Commission (“CPUC”) Decision (“D.”) 11-12-052, available at the following link:

[D1112052 Implementing Portfolio Content Categories for the Renewables Portfolio Standard Program](#)

- (a) Bundled Energy Product. Product qualifying as Portfolio Content Category 1 (“Category 1” or “Category 1 Product”),⁵ which includes all electric energy produced by an ERR Generating Facility throughout the Term of the Final Agreement, net of Station Use; all Green Attributes; all Capacity Attributes, if any; and all Resource Adequacy Benefits, if any; generated by, associated with, or attributable to the output of the ERR Generating Facility throughout the Term of the Final Agreement whether such credits or other attributes exist at the time a Final Agreement is executed or are created later during the Term of the Final Agreement.
- (b) Proposals to Purchase RECs. SCE will be selling RECs to interested buyers: (“Buyers”). ~~Offers to purchase Category 1 and Category 3 RECs from SCE will only be accepted for RECs that are generated between 20172018 and 2020 (20172018 to 2020 vintage RECs).~~ Category 1 offers must include a REC price and an energy price. Category 3 offers must include a REC price.
- (c) As used herein, the term “Final Agreement” refers to any final agreement resulting from the RPS Solicitation.

1.3 Basic Terms and Conditions

For proposals to sell bundled energy product to SCE:

- (a) Except for projects delivering to ~~a substation in the Western LA Basin sub-area or delivering to~~ the Goleta Substation or other area specifically called out by SCE (collectively, “Preferred Areas”), SCE will only consider Proposals to purchase Product from ERR Generating Facilities with initial delivery dates to SCE on January 1, 2021 **TBD** or later. Sellers must propose Commercial Operation Dates that start on the first day of the month. For projects located in a Preferred Area, SCE will consider proposals with any start date.

⁵ In accordance with Public Utilities Code Section 399.16(b)(1) and D.11-12-052.

- (b) Prior to the start of the Term of the *Pro Forma* PPA, Sellers may, at their discretion, deliver energy, capacity or other attributes of the ERR Generating Facility (i) through the CAISO Market, (ii) to a balancing authority, or (iii) to a third-party off-taker.
- (c) SCE will consider Proposals from Sellers with ERR Generating Facilities that are located outside the State of California only if they can deliver Product that qualifies as Category 1 Product.
- (d) With respect to any Project, SCE WILL NOT ACCEPT PROPOSALS TO DELIVER PRODUCT AT THE PROJECT'S BUSBAR.

SCE is only soliciting Product from ERR Generating Facilities which possess: (1) a completed Phase II Interconnection Study or equivalent (unless the project is located in a Preferred Area, which, in such case, the projects must have a Phase I study or better),⁶ (2) a signed interconnection agreement, or (3) an equivalent or better interconnection study, agreement, process, or exemption. The interconnection study or agreement (1) must be in the same name as the Seller under the *Pro Forma* PPA, or (2) the sponsor must demonstrate, to SCE's reasonable satisfaction, that sponsor has exclusive rights to the interconnection agreement by means of an unconditional assignment.

- (e) If (1) the California Environmental Quality Act ("CEQA") or the National Environmental Policy Act ("NEPA") applies to the ERR Generating Facility and (2) a lead agency has been designated under the applicable law, then SCE will consider Proposals from such ERR Generating Facilities only if the ERR Generating Facility has achieved, at a minimum, an "application deemed complete" (or equivalent)⁷ status under the land use entitlement process by the agency designated by CEQA or NEPA as the lead agency. Proposals not meeting this requirement will not be given further consideration.
- (f) Sellers may offer any term length. However, at least one Proposal must offer a term length of ten (10) years or less. SCE has a preference for shorter term lengths.

⁶ For Projects that are utilizing the interconnection study fast track process, SCE will accept either: (1) written evidence from SCE's Grid Interconnection Department that the ERR Generating Facility has passed all fast track screens and no further studies are required; or (2) a completed System Impact Study and Facilities Study (or evidence from Grid Interconnection that the Facilities Study was waived); or (3) a signed interconnection agreement.

⁷ Pursuant to Section 6.1 of D.14-11-042, local government uses the term "application deemed complete" (California Government Code §65943); California Energy Commission uses the term "data adequate" (Title 20 CCR § 1709); Bureau of Land Management uses the term "completed application" (43 CFR 2804.25).

- (g) SCE will accept multiple Proposals for the same Project (e.g., flat vs. escalating pricing for the same Project; five (5)-year vs. ten (10)-year term for the same Project; etc.). Multiple proposals for the same Project shall be considered mutually exclusive.
- (h) Sellers may submit a maximum of six (6) different proposals for each Project bid.
- (i) Proposals for Product delivered from ERR Generating Facilities with a Contract Capacity of 500 kW or greater are eligible to participate in this RPS Solicitation.
- (j) SCE intends that the definition of “Site” and “Site Control” not only means the land upon which the ERR Generating Facility is expected to be located, but also encompasses any rights-of-way or other real property rights necessary for Seller to be able to deliver the Product to SCE (e.g., land on which Seller’s generation tie line between the ERR Generating Facility and the Interconnection Point shall be constructed). Seller’s Proposal must demonstrate Site Control or the Proposal will not be given further consideration.
- (k) Seller’s Generating Facility must be a new, existing, or repowered Generating Facility that is an ERR,⁸ unless Seller intends to submit a Proposal for consideration under the Community Renewables program (as defined in Section 4.06), in which case the Generating Facility must be a new Generating Facility that qualifies as an ERR.
 - (i) An existing ERR Generating Facility must be certified by the California Energy Commission (“CEC”) as an ERR or multiple ERRs prior to the Proposal Due Date as set forth in the RPS Solicitation Schedule.
 - (ii) For ERR Generating Facilities not yet on-line and for repowered ERR Generating Facilities, SCE requires Seller to seek CEC “pre-certification” as an ERR prior to the Commercial Operation Date.
- (l) Sellers’ Proposals intending to deliver Bundled Energy Product shall convey to SCE all electric energy, as well as all attributes associated with such

⁸ An ERR is a Generating Facility that meets all the criteria set forth in Public Utilities Code Section 399.12, Public Resources Code Section 25741, and the **Renewables Portfolio Standard Eligibility Guidebook, EighthNinth Edition** (~~California Energy Commission, Publication Number: CEC-300-2015-001-ED8-CMF~~) (“CEC RPS Eligibility Guidebook”), ~~which may~~ which may). The Guidebook can be found ~~hereby accessing the following link: http://www.energy.ca.gov/2015publications/CEC-300-2015-001/CEC-300-2015-001-ED8-CMF.pdf~~ renewables/documents/#rps.

electric energy, including, but not limited to, Metered Amounts, Green Attributes, Capacity Attributes, and Resource Adequacy Benefits that are attributable to the ERR Generating Facility as detailed in the Renewable PPA.

~~(m) — Through the RPS Solicitation, SCE continues to solicit ERR Generating Facilities in the Western Los Angeles sub-area of the Los Angeles basin local reliability area (“Western LA Basin sub-area”)⁹ to meet local capacity requirements (“LCR”) and specifically, resources that are interconnected to SCE’s distribution system in the Johanna and Santiago substation area to meet SCE’s Preferred Resources Pilot (“PRP”) goals, as detailed below, which may also be met by ERR Generating Facilities. SCE also solicits ERR Generating Facilities that electrically connect to the Goleta substation.~~

~~(n) — On February 13, 2013, the CPUC issued D.13-02-015, authorizing SCE to procure between 1,400 and 1,800 MW of capacity in the Western LA Basin sub-area to meet the long-term LCR criteria by 2021. On March 4, 2014, the CPUC issued D.14-03-004 authorizing SCE to procure an additional 500 to 700 MW of capacity in the Western LA Basin sub-area to satisfy the same local capacity requirements. Pursuant to SCE’s Application 14-11-012, SCE continues to have a need for such resources beyond what has already been procured to meet the CPUC minimum amounts identified in the referenced decisions.~~

~~Proposals from Sellers meeting the LCR criteria and the PRP may be also eligible for classification as a Resource Adequacy Resource through the CAISO’s distributed generation deliverability assessment program. The CAISO is working with utility distribution companies to assign Full Capacity Deliverability Status (“FCDS”) to eligible distributed generation facilities pursuant to the CAISO Tariff Section 40.4.6.3. The CAISO performs this process on an annual basis.~~

~~(o) — Consistent with the Governor of California’s Proclamation dated October 30, 2015, SCE has a preference for biomass projects utilizing forest wood waste from high hazard zones.¹⁰~~

For proposals to sell bundled energy product to SCE and proposals to purchase RECs from SCE:

⁹ An ERR Generating Facility that either: (i) directly connects to a West LA Basin High Voltage Substation; or (ii) directly connects to a lower voltage substation that electrically connects to a West LA Basin High Voltage Substation (i.e., defined as one of the following substations located in the CAISO Controlled Grid: Alamitos, Barre, Center, Chevmain, Del Amo, Eagle Rock, El Nido, El Segundo, Ellis, Goodrich, Gould, Hinson, Huntington Beach, Johanna, La Cienega, La Fresa, Laguna Bell, Lewis, Lighthipe, Long Beach, Mesa, Olinda, Redondo, Rio Hondo, Santiago, Viejo, Villa Park, and Walnut).

¹⁰ See “Proclamation of a State of Emergency” signed by Governor Edmund G Brown on October 30, 2015.

~~(p)~~(m) SCE will only consider Proposals that are substantially complete and include all of the applicable information, representations, warranties, and covenants as set forth in this Procurement Protocol and/or the on-line application bidders are required to complete (the “Proposal Form”).

~~(q)~~(n) The primary method for exchange of information or documents concerning this RPS Solicitation, including any such exchange concerning the preparation or submission of Proposals to SCE, will be via the RPS Solicitation Website or other method designated by SCE.

SCE may, in its sole discretion, decline to respond to any correspondence or other inquiry about this RPS Solicitation without liability or responsibility.

~~(r)~~(o) SCE will host a conference to discuss the process with participants. Information on how to attend the conference will be made available on the RPS Solicitation Website.

(p) In conformance with D.11-12-052, Buyer’s cannot purchase RECs from SCE prior to CPUC approval of the REC Purchase Agreement.

~~(s)~~(q) SCE encourages Women-Owned, Minority-Owned, Disabled Veteran-Owned, Lesbian-Owned, Gay-Owned, Bisexual-Owned, and/or Transgender-Owned Business Enterprises (“Diverse Business Enterprises”) to participate in the RPS Solicitation. Information on SCE’s Supplier Diversity Program can be found on the following SCE website: www.sce.com/sd

CPUC General Order (“GO”) 156

(<http://www.cpuc.ca.gov/PUC/documents/go.htm>) sets the rules governing, among other things, goals, annual reporting and annual planning in the development of programs to increase participation of Diverse Business Enterprises in procurement of contracts from utilities as required by the California Public Utilities Code.

You can help SCE achieve its GO 156 goals in the following ways:

- (i) For qualified Diverse Business Enterprise Sellers (Tier 1 – direct contracting with SCE), ensure you are certified by the CPUC (The Supplier Clearinghouse) (www.thesupplierclearinghouse.com). Disabled Veteran Owned Business Enterprises in California are certified through the California Department of General Services (www.dgs.ca.gov/) and are automatically recognized by The Supplier Clearinghouse.
- (ii) Require that any qualified Tier 2 Diverse Business Enterprises (subcontractors to a Tier 1 Seller) that perform work or deliver

materials related to a project that is ultimately under contract with SCE are certified by one of the above mentioned agencies.

Furthermore, as provided in Section 6.3 of GO 156, SCE's Supplier Diversity efforts include encouraging its Sellers to develop plans to utilize Diverse Business Enterprise subcontractors. SCE can help with identifying Diverse Business Enterprises for subcontracting opportunities. In addition, the Renewable PPA includes a requirement to report payments made to Diverse Business Enterprises that supplied goods or services as subcontractors.

A sample list of potential products and services that may be available through Diverse Business Enterprises as subcontractors is provided in the table below. This table is not intended to serve as a comprehensive list of all of the subcontracting opportunities that may be available.

PRE-Commercial Operation Date		POST-Commercial Operation Date	
Products	Services	Products	Services
<ul style="list-style-type: none"> • Environmental Impact Studies • MRO (Balance of Plant: wiring, conduit, steel, concrete, etc.) • Panels • Technology 	<ul style="list-style-type: none"> • Construction • Construction • Consulting • Engineering (Interconnection design, roads/grading, SWPPP, Arc Flash Study, Geotechnical reports, environmental monitoring, etc.) • EPC Contractor • Installation • Land Acquisition • Legal Services • Permitting • Research and Development (R&D) • Site Prep • Transportation 	<ul style="list-style-type: none"> • IT Equipment (Hardware & Software) 	<ul style="list-style-type: none"> • Engineering (Fire protection and Telecommunication) • Facilities Management • IT Support (Hardware & Software) • Janitorial • Large Equipment rentals and operator • Legal Services • Panel Cleaning • Plant Maintenance • Plant Security • Regulatory Reporting Services • Specialty/Admin Staffing • Water Treatment & Testing

~~This list was compiled with input from SCE, San Diego Gas & Electric and Pacific Gas and Electric. Please note that there may be other potential products and services that may qualify.~~

This list was compiled with input from SCE, San Diego Gas & Electric and Pacific Gas and Electric. Please note that there may be other potential products and services that may qualify.

~~2017~~2018 Request for Proposals from Eligible Renewable Energy Resource Suppliers for Renewable Products

*** *End of ARTICLE ONE* ***

2017~~2017~~2018 Request for Proposals from Eligible Renewable Energy Resource Suppliers for Renewable Products

ARTICLE TWO. PRODUCT DELIVERY AND PRICE

2.1 ERR Generating Facility Location and Interconnection

Seller's ERR Generating Facility may be located either:

(a) In-State

An ERR Generating Facility is considered "In-State" if such ERR Generating Facility's first point of interconnection is, or will be, to the transmission or distribution system of a California Balancing Authority ("CBA").

(b) Out-of-State

An ERR Generating Facility is considered "Out-of-State" if such ERR Generating Facility's first point of interconnection is not, or will not be, to the transmission or distribution system of a CBA but the ERR Generating facility is delivering Product. Seller shall comply with all requirements pertaining to "Out-of-State Facilities" as set forth in the CEC RPS Eligibility Guidebook, including, but not limited to, ensuring that:

- (i) The ERR Generating Facility is located so that its first point of interconnection is, or will be, to the Western Electricity Coordinating Council transmission system;
- (ii) The ERR Generating Facility does not cause or contribute to any violation of a California environmental quality standard or requirement within California; and
- (iii) The ERR Generating Facility participates in an RPS tracking and verification system approved by the CEC (including WREGIS and NERC E-Tags).

2.2 Delivery of Bundled Energy Product

(a) In-State

For In-State ERR Generating Facilities that are, or will be, interconnected to the CAISO, the Delivery Point must be the point where the ERR Generating Facility connects to the CAISO Controlled Grid.

For In-State ERR Generating Facilities that are, or will be, interconnected to a CBA other than the CAISO, the Delivery Point¹¹ must be the intertie point where Seller's Transmission Provider ties to the CAISO ("CAISO Intertie").

¹¹ The Delivery Point is subject to SCE's approval in its sole discretion.

(b) Out-of-State

~~For Category 1 Product,~~ Seller must reasonably demonstrate to SCE as part of its submitted Proposal package that the output of the proposed Out-of-State ERR Generating Facility can in fact be scheduled on an hourly or sub-hourly basis into a CBA, without, substituting electricity from another source, or dynamically transferred into a CBA. Such reasonable demonstration may include, for example, a Dynamic Scheduling Host Balancing Authority Operating agreement as defined in the CAISO Tariff.

Seller will be required to have firm transmission rights to the Delivery Point within the CAISO or to the respective CAISO Intertie for the duration of the term of the Final Agreement.

2.3 Existing ERR Generating Facility, Existing Power Purchase Agreement

An existing ERR Generating Facility with an existing power purchase agreement must submit a Proposal that:

- (a) States the full name of the ERR Generating Facility as well as the contract identification number, Qualifying Facilities (“QF”) number, or any other information necessary for SCE to identify the ERR Generating Facility;
- (b) States the date on which the Seller believes that the existing power purchase agreement will terminate;
- (c) Demonstrates to SCE’s reasonable satisfaction that Seller’s existing power purchase agreement will terminate, by its own terms, without further action of the parties thereto, prior to the date on which deliveries from the existing ERR Generating Facility will commence under Seller’s Proposal.

For Projects that are currently operating under a QF Power Purchase Agreement (“QF PPA”), the Interconnection Facilities Agreement (the “IFA”) is usually an integral part of the QF PPA, and will not survive the expiration of the QF PPA. Proposals that are intended to be end-to-end with an expiring QF PPA must undergo a technical review and convert to Wholesale Distribution Access Tariff agreement or other interconnection agreement. Sellers are responsible to ensure that they meet their delivery obligations under any agreement ultimately signed as a result of this Solicitation keeping in mind that Sellers may be obligated to undergo a lengthy review process when converting from a QF PPA. Sellers should check with their grid interconnection manager for more details regarding their specific projects.

2.4 Product Price or Contract Price

SCE intends to purchase Bundled Energy Product from those Sellers that have executed a Renewable PPA with SCE at the Product Price, in \$/MWh, as defined in the Renewable PPA and further outlined below.

SCE intends to sell REC Product ~~from~~to those ~~buyers~~Buyers that have executed a REC Purchase Agreement with SCE at the Contract Price, in \$/MWh, as defined in the REC Purchase Agreement and further outlined below.

The Product Price or Contract Price submitted by a Seller or ~~buyer~~Buyer as part of its Proposal must:

- (a) Conform with the pricing requirements in the *Pro Forma* PPA;
- (b) Assume, if applicable, posting Development Security, Performance Assurance and any other security as required by the *Pro Forma* PPA;
- (c) If applicable, include awards, subsidies, tax credits, grants, etc.;
- (d) If applicable, assume the cost to dynamically schedule or firm and shape the Product into the CAISO at the Delivery Point; and
- (e) If applicable, assume the cost of any firm transmission rights to deliver the Product into the CAISO at the Delivery Point.

SCE will not accept an indexed pricing Proposal.

For all Bundled Product except for Bundled product combined with storage, Seller must submit its price assuming the Product Price will be adjusted by SCE in each settlement interval in each Time of Delivery Period by the Product Payment Allocation Factors set forth in Exhibit J to the Renewable PPA. Pricing for Bundled Product combined with storage will not be adjusted by the Product Allocation Factors. Sellers will receive the contract price for all Time of Delivery periods.

2.5 Use of the Mohave SO₂ Allowance Revolving Fund Memorandum Account

Proposals associated with the Hopi Tribe and/or Navajo Nation that qualify under the requirements of D.13-02-004, may be entitled to use available funds from the Mohave SO₂ Allowance Revolving Fund Memorandum Account to meet the Development Security obligations under the Renewable PPA, subject to the provision of the necessary documentation and assurances in the Final Agreement.

2.6 SCE Affiliates

SCE affiliates are permitted to participate in this RPS Solicitation. Seller must disclose whether it is an SCE affiliate.

*** End of ARTICLE TWO ***

ARTICLE THREE. RPS SOLICITATION SCHEDULE AND PROPOSAL SUBMITTAL PROCESS

3.1 RPS Solicitation Schedule

Dates*	Event
TBD	SCE releases 2017 2018 RPS Solicitation.
TBD	SCE hosts a Bidders' Conference.
TBD	Sellers to provide their full Proposal e-Binder to SCE via the RPS Solicitation Website or other method as determined by SCE.
TBD	<p>SCE submits Short-List to CPUC and Procurement Review Group ("PRG").</p> <p>Latest date SCE advises all Sellers on the status of their Proposals relative to SCE's Short-List.</p> <p>For Sellers whose Proposals have been named to the Short-List, the negotiations period begins.</p>
TBD	SCE and Short-Listed Sellers complete negotiations for the Final Agreements.
TBD	SCE signs the Final Agreement
TBD	SCE submits the Final Agreements by way of Advice Letters to the CPUC for approval.

* SCE reserves the right to make changes to the above schedule.

3.2 Proposal Instructions

- (a) Seller must input information and upload all of the documents described in this Section for each Proposal. The documents to be uploaded can be downloaded from the SCE RPS Solicitation Website.
- (b) The RPS Solicitation Website utilizes a web-based information-input system where all required information and documents are submitted to SCE by filling out on-line forms and uploading documents. When filling out the on-line Proposal Form, the website automatically checks portions of the data as it is inputted by Seller. The Proposal Form cannot be saved and uploaded unless

~~2017~~2018 Request for Proposals from Eligible Renewable Energy Resource Suppliers for Renewable Products

the Proposal Form is complete. Drop-down menus and automatic re-direction to appropriate forms are incorporated to guide the Seller through the process.

Input sections for project-specific information are provided. Further, separate input sections for Proposals associated with that specific project are provided. Sellers may use these forms to input multiple, distinct Proposals associated with a specific project.

The Proposal Form has “check the box” attestations that Seller must acknowledge. If Seller is unwilling to make the required attestations by checking the box, Seller cannot participate in the RPS Solicitation.

- (c) Except for REC Product, provisions have been made to allow Seller to mark Proposals they have successfully completed as mutually exclusive. Seller may not offer mutually exclusive proposals for REC Product.
- (d) Seller’s Proposal(s) must be complete in all respects and uploaded using the RPS Solicitation Website.

Important: *Seller is responsible for the accuracy of all information delivered to SCE through the RPS Solicitation Website. SCE will not alter, update, or change any information submitted to the RPS Solicitation Website. Seller risks disqualification if delivered information is incorrect or is in conflict with uploaded documents. Seller is advised to use care when assembling and delivering the required information.*

- (e) Proposals that are incomplete in any way or are delivered to SCE by any means other than uploaded through the RPS Solicitation Website will be rejected. Printed copies of Proposals, as well as electronic copies via CD, DVD, or flash drive, will not be accepted.
- (f) The Proposal Form along with the completed and uploaded documents set forth below make up the “Proposal e-Binder.” Proposal e-Binders must be completed and uploaded by the Proposal Due Date set forth in this document. The date and time set for submission of the Proposal e-Binders will be strictly enforced. Late submissions will be rejected.
- (g) Along with the Proposal Form, Seller must complete and upload to the RPS Solicitation Website **all of the following documents**.¹²

¹² Except for the proposal structure letter, interconnection documents, the environmental review documents, and the project boundary documents, forms for all of these documents are posted on the RPS Solicitation Website. Not all of these requirements are applicable to existing projects exercising the Standard Contract Option (see Section 4).

- (i) **A Proposal Structure Letter** (there is no template for this document). This document should include the following, as applicable:

- Introduction of the entities that comprise the Seller.
- Description of the Project. For bundled sales product, this includes Project location, where you are in the permitting and interconnection process, any challenges or issues and other information relevant to the Project.
- Summary of the Proposal

Additionally, The Proposal Structure Letter must include:

- (ii) **Workforce Development:** In conformance with the CPUC “2016 Renewables Portfolio Standard Procurement Plans, dated May 17, 2016” (‘ACR’)¹³, Sellers shall provide information and, where appropriate, documentation, as to the Project’s expected contribution to employment growth both in the construction phase of the Project and after construction is completed. Sellers submittal should include, without limitation, the number and type of jobs created and from what geographic region the work force is expected to come from. *{SCE Note: Does not apply for offers to purchase REC Product}*
- (iii) **Disadvantaged Communities:** In compliance with the ACR, Sellers shall identify any Project offered that will give environmental or economic benefit to a community afflicted with poverty or high unemployment, or that suffers from high emission levels of toxic air contaminants, criteria air pollutants, and greenhouse gases. These communities may be identified using the census tracts within SCE’s service territory identified in the Excel file posted to the RPS Solicitation Website. *{SCE Note: Does not apply for offers to purchase REC Product}*
- (iv) A fully executed **Officer’s Certificate** – this document, signed by an officer of either the sponsor or project company, signifies Seller’s agreement to certain conditions including, without limitation: i) an attestation that they have reviewed the relevant documents and is providing the proposal in good faith; ii) an attestation that Seller has site control *{SCE Note: Does not apply for offers to purchase REC Product}*; and iii) an attestation that they will not engage in collusion or other unlawful or unfair business practices in connection with the RPS Solicitation.

¹³ *Id.* at page 14.

- **THIS DOCUMENT MUST BE SIGNED AND UPLOADED WITHOUT MODIFICATION.**
 - **ONE OFFICER’S CERTIFICATE SHOULD BE UPLOADED FOR EACH PROJECT.**
- (v) If not submitted through a previous solicitation, a fully completed and executed **Evergreen Non-Disclosure Agreement (“NDA”)** (this must be uploaded as a locked MS Word document);
- **THIS DOCUMENT MUST BE SIGNED AND UPLOADED WITHOUT MODIFICATION.**
 - **THE EVERGREEN NDA IS INTENDED TO COVER ALL PROJECTS SUBMITTED BY SELLER OR BUYER. ONLY ONE SIGNED EVERGREEN NDA SHOULD BE UPLOADED.**
- (vi) A fully completed **Project Viability Calculator** (This must be uploaded for each project as a password-protected MS Excel file); *{SCE Note: Does not apply for offers to purchase REC Product}*
- (vii) A fully completed **Generation Profile** (This must be uploaded for each project as a password-protected MS Excel file); *{SCE Note: Does not apply for offers to purchase REC Product}*
- (viii) A completed Geographic Information System file of the project boundaries and associated gen-tie (“Project Boundary File”) as required by the CPUC. *{SCE Note: Does not apply for offers to purchase REC Product}*
- (ix) For each project, a copy of the letter from the lead land use permitting agency documenting that the land use permit application for the project has been “deemed complete”¹⁴ to begin the permitting review process (“**Environmental Review Letter**”). *{SCE Note: This requirement applies if (1) the California Environmental Quality Act or the National Environmental Policy Act applies to the ERR Generating*

¹⁴ See Note 8.

Facility and (2) a lead agency has been designated under the applicable law. Does not apply for offers to purchase REC Product.}

Important: *SCE will not accept the Evergreen NDA or the Officer's Certificate if it has been changed to a different format or otherwise altered in any unauthorized way. Seller is required to fill out the locked MS Word Template only in the spaces provided and upload the resulting locked MS Word document. Please sign and then scan and return ONLY the signature pages of each document.*

- (h) Once SCE has completed its review of the above submittals, SCE may ask Seller to provide the following:
 - (i) Copies of the **Generating Facility's interconnection studies** and/or interconnection agreement.; and
 - (ii) A fully executed **Consent for Release of Interconnection Related Information** (this must be uploaded as a locked MS Word document);
{SCE Note: This document only pertains to Projects located in the SCE Service Territory. Disregard this requirement if your Project is located outside of the SCE Service Territory.}

For all interconnection and environmental review documents described above, SCE will accept documents uploaded to the RPS Solicitation Website in WORD or the PDF file format. Whenever possible, please upload these documents as searchable PDF files so that SCE may locate particular words or phrases within the respective files.

If Seller is unresponsive to SCE's requests for documentation, then the Proposals from Seller may be disqualified from further consideration.

3.3 The Pro Forma PPA¹⁵

For the delivery of Bundled Energy Product, SCE's Renewable PPA is structured under the assumption that:

- (a) Seller's Proposal is based upon the green-field development of a new ERR Generating Facility,
- (b) The ERR Generating Facility's first point of interconnection will be with the CAISO, and

¹⁵ Attached as Associated Documents A and B.

(c) SCE will be the Scheduling Coordinator.

SCE may serve as Scheduling Coordinator for any existing or proposed In-State ERR Generating Facility that is eligible to participate in this RPS Solicitation. Seller must indicate in its Proposal whether Seller wishes SCE to serve as the Scheduling Coordinator. **SCE DOES NOT SERVE AS SCHEDULING COORDINATOR FOR OUT-OF-STATE PROJECTS.**

3.4 Resource Adequacy Benefits

For the delivery of Bundled Energy Product, Seller must offer an ERR Generating Facility based on an interconnection assuming either Energy Only Deliverability Status (“EO”), or such proposals that include the conferment by the CAISO of FCDS, Partial Capacity Deliverability Status (“PCDS”) or Interim Deliverability Status (“IDS”) (collectively, “Capacity Deliverability Status”),¹⁶ and a CAISO Net Qualifying Capacity (“NQC”) assignment.

EO Projects will be deemed to have an NQC of zero and, therefore, cannot be considered to be a Resource Adequacy Resource.

Capacity Deliverability Status Projects are considered to be a Resource Adequacy Resource and are assigned a Qualifying Capacity by the CPUC. The Qualifying Capacity may be reduced by the CAISO as applicable based on: (i) testing and verification; (ii) application of performance criteria; and (iii) deliverability restrictions, yielding the NQC assignment conferred on the Project by the CAISO.

For Capacity Deliverability Status Projects, Seller must indicate a date upon which they anticipate the CAISO will confer on the Project Capacity Deliverability Status. Such date (the “RA Guarantee Date”) may not be earlier than, but may be later than, a date estimated in the Phase II Interconnection Study or equivalent, or interconnection agreement, at Seller’s discretion.¹⁷

For Capacity Deliverability Status Projects, if the Project’s NQC assignment is less than the Qualifying Capacity or is otherwise reduced by the CAISO for any reason, then SCE shall continue to pay to Seller the Product Price.

¹⁶ Generating Facilities interconnecting at the distribution system level may be eligible for FCDS through the CAISO’s distributed generation deliverability assessment. The CAISO is working with utility distribution companies assigning FCDS to eligible distributed generation facilities pursuant to the CAISO Tariff Section 40.4.6.3 on an annual basis. The CAISO has posted these distributed generation deliverability assessment seasonal results to its website at <http://www.caiso.com/Documents/SystemRoot/PLANNING>. Additional information is also available on SCE’s website at <https://www.sce.com/wps/portal/home/regulatory/open-access-information>.

¹⁷ See Section 3.02 of the Renewable PPA for additional details.

However, Seller must pay to SCE liquidated damages as set forth in Section 3.02 of the Renewable PPA.

3.5 Independent Evaluator

SCE has engaged an Independent Evaluator (“IE”) to evaluate and report on the solicitation, evaluation, selection, and negotiation process for this RPS Solicitation.

The Independent Evaluator will review all Proposals and will have the opportunity to be present at meetings and conference calls between SCE and Short-Listed Sellers.

The Independent Evaluator will have full access to the RPS Solicitation Website and all the e-Binders and correspondence uploaded by Sellers.

The Independent Evaluator will periodically make presentations to SCE, the CPUC and the PRG in order to ensure that the RPS Solicitation process remains open, fair and transparent.

*** *End of ARTICLE THREE* ***

ARTICLE FOUR. STANDARD CONTRACT OPTION

4.1 Explanation of the Standard Contract Option and the Community Renewables Program

As part of the RPS Solicitation, SCE is offering a “Standard Contract Option” using the streamlined Renewable Auction Mechanism (“RAM”) procurement tool authorized in D.14-11-042. The Standard Contract Option is available for Proposals offering Bundled Energy Product with a first point of interconnection to the CAISO, and not dynamically scheduled ERR Generating Facilities.

The Standard Contract Option provides for the rapid deployment of Projects by avoiding the contract negotiation process and expediting the CPUC approval process for any Final Agreements. Sellers have the option to participate in the Standard Contract Option by checking a box in the Proposal Form. Subject to SCE’s selection of the Proposal and its agreement that a standard contract is appropriate for the Proposal, Seller will be offered a standard contract in the form of the Renewable PPA with no changes or negotiations.¹⁸ Once executed, these standard contracts will be submitted via a Tier 2 Advice Letter to the CPUC for approval.

Where circumstances dictate, the Standard Contract Option may not be the appropriate contracting option. Therefore, the Standard Contract Option can only be applied if SCE, in its sole discretion, determines that the Standard Contract Option is appropriate for a specific Project.

SCE will establish its Short-List based on Net Market Value and other criteria as set forth in Article Five, below. In order to be selected, the value of a standard contract project must rank within the range established for the entire Short-List.

In compliance with D.14-11-042, Projects that select the Standard Contract Option must commence commercial operation within 36 months of CPUC Approval of the executed Final Agreement (with a possible six-month extension for regulatory delay). Seller’s Proposal(s) must include sufficient documentation to support the project meeting the milestones to achieve commercial operation within the 36 months.

For the Standard Contract Option, Seller must comply with the requirements of Section 3.02.

SCE will seek approval of Standard Contract Option projects that result in Final Agreements through the Tier 2 Advice Letter process which allows for a faster anticipated CPUC approval time.

¹⁸If SCE uses the Standard Contract Option for Green Rate procurement, a representation and warranty is included in the Renewable PPA, only applicable to Green Rate Projects, obligating Sellers to comply with the Green-e[®] National Energy Standard.

4.2 ~~Community Renewables Program~~

~~As part of the Green Tariff Shared Renewables (“GTSR”) Enhanced Community Renewables (“CR”) and Enhanced Community Renewables Environmental Justice (“EJ”) program as set forth in CPUC decisions D.15-01-051 and D.16-05-006 (the “Decisions”), SCE is soliciting offers from owners of Generating Facilities that are newly constructed ERR’s and are capable of qualifying as a CR project or an EJ project to supply Product utilizing the Standard Contract Option and CR Rider and Amendment.~~

~~In addition to meeting all other requirements for the Standard Contract Option, to be eligible for SCE’s Community Renewables procurement need, Projects must:~~

- ~~(a) Be located in SCE’s service territory. The Project must be physically located within SCE’s electric service territory, and must be interconnected to SCE’s electric system.~~
- ~~(a) Be New Facilities that qualify as ERRs. The Project must be a New Facility that generates electricity from a resource that is an ERR. Projects that include energy storage are not eligible to participate. New Facilities are those that do not have an existing, nor have ever had a power purchase agreement or other contract for energy and/or capacity deliveries to SCE, or any other counterparty, for the Project at the time of execution of the Final Agreement.~~
- ~~(a) Have a Contract Capacity greater than or equal to 0.5 MW and less than or equal to 20.0 MW. EJ Projects must have a Contract Capacity greater than or equal to 0.5 MW and less than or equal to 1.0 MW. SCE will not execute Final Agreements with multiple Projects that utilize the same interconnection queue number if the result would be a total of more than 20 MW under contract for CR eligible Projects, whether through the 2016 RPS Solicitation or another program. Similarly, if an Offeror bids multiple CR Projects that total more than 20 MW from the same queue position, SCE will consider only the Offer(s) that are the most favorable Project(s), based on least-cost best-fit methodology, until a total of 20 MWs in aggregate is reached and SCE will exclude any remaining Offers from further consideration.~~
- ~~— SCE will not execute Final Agreements with multiple Projects that utilize the same interconnection queue number if the result would be a total of more than 1 MW under contract for EJ eligible Projects, whether through the 2016 RPS Solicitation or another program. Similarly, if an Offeror bids multiple EJ Projects that total more than 1 MW from the same queue position, SCE will consider only the Offer(s) that are the most favorable Project(s), based on least-cost best-fit methodology, until a total of 1 MWs in aggregate is reached and SCE will exclude any remaining Offers from further consideration.~~

~~20172018 Request for Proposals from Eligible Renewable Energy Resource Suppliers for Renewable Products~~

- ~~(b) — Have an active, completed Phase II Interconnection Study or equivalent, a signed GIA, or an equivalent or better interconnection study, agreement, process or exemption.~~
- ~~(b) — Demonstrate Site Control.~~
- ~~(b) — Have a Forecasted Commercial Operation Date or interconnection date that is the first day of a calendar month and within thirty six (36) months of the anticipated date for final and non-appealable CPUC approval of a Final Agreement.~~
- ~~(b) — Utilize commercialized technology (i.e., neither experimental, research, demonstration, nor technology in development).~~
- ~~(b) — Qualify as a CR Project or EJ Project, as applicable, pursuant to the Decisions. EJ Projects must satisfy the locational requirements set forth in the Decisions, based on the current version of the CalEnviroScreen tool and the eligible census tracts for EJ Projects identified in the Excel file posted to the RPS Solicitation Website. If SCE executes a Final Agreement with a Project that is an eligible EJ Project based upon the approved rules at the time of this Solicitation, the Project will continue to be considered as an eligible EJ Project through the Delivery Period, even if the CalEnviroScreen tool is amended, or other changes occur in regards to the definition of Environmental Justice under the GTSR program.~~

Additional requirements:

Community Location

~~Subscribing CR Customers must be physically located within the same municipality or county as the Project, or within ten miles of the Project, prior to the execution of the Final Agreement. After the Final Agreement is executed, subscribing CR Customers must be located anywhere within SCE's service territory.~~

Community Interest

~~Within sixty (60) days from notification of contract award, Seller must demonstrate "community interest" for the Project, as required pursuant to Decisions ("Community Interest"), or the awarded capacity may be assigned to the next highest ranking least-cost best-fit Project. Waitlisted Sellers who wish to be considered for a contract award must demonstrate Community Interest within this same sixty (60) day period. Additionally, at least 50% (by number of customers) of the CR Customers, and least 1/6th of the demonstrated Community Interest, must come from residential customers.~~

CR Customer Eligibility.

~~All CR Customers must meet the eligibility requirements as provided in Schedule GTSR CR. Except as may be set forth in this Article Four, Sellers opting to use the Standard Contract Option must comply with all of the requirements of the RPS Solicitation.~~

**** End of ARTICLE FOUR ****

ARTICLE FIVE. EVALUATION OF PROPOSALS

5.1 Proposal Evaluation Overview

For Proposals to purchase RECs, SCE will evaluate and rank all proposals received taking into consideration pricing, number of RECs required by the ~~buyer~~Buyer, vintage and other relevant factors.

SCE evaluates and ranks Proposals for Bundled Product based on least-cost, best-fit (“LCBF”) principles that comply with criteria set forth by the CPUC in D.03-06-071 and D.04-07-029 (“LCBF Decisions”) and other CPUC decisions on the investor-owned utilities’ RPS Procurement Plans.¹⁹

The LCBF analysis evaluates both quantitative and qualitative aspects of each Proposal to estimate its value to SCE’s customers and its relative value in comparison to other Proposals.

Prior to receiving Proposals, SCE finalizes criteria with the IE to determine which attributes make Proposals clear outliers. SCE then finalizes the major assumptions and methodologies that drive valuation.

Once Proposals are received, SCE will determine which Proposals are clear outliers. For Proposals deemed clear outliers, SCE concludes any further review. SCE will then begin a review for completeness and conformity with the Procurement Protocol for the remaining Proposals. SCE will evaluate Proposals utilizing information that is inputted into the Proposal Form. Supporting documents, such as the Proposal Structure Letter, Interconnection Documents or any other supporting information are for informational purposes only and **ARE NOT** relevant inputs related to this stage of the Proposal evaluation process. SCE’s review includes an initial screen of the Proposal Form for required submission criteria. Proposals that are substantially complete but lacking required information are allowed a reasonable cure period to remedy any deficiencies. Following this check for conformity, SCE conducts an additional review to determine the reasonableness of Proposal parameters such as generation profiles and capacity factors. SCE works directly with Sellers to resolve any issues and ensure the data is ready for evaluation.

After these reviews, SCE performs a quantitative assessment of each Proposal and subsequently ranks them based on the Proposal’s benefit and cost relationship. Specifically, the total benefits and total costs are used to calculate the net levelized cost or “Net Market Value” for each complete and conforming Proposal. Benefits are

¹⁹ See also Cal. Pub. Util. Code § 399.13(a)(4)(A).

comprised of separate capacity, energy, and congestion components, while costs include the contract payments, debt equivalents, integration cost, congestion cost, and transmission cost. SCE discounts the monthly benefit and cost streams to a common base date. SCE also normalizes the net cost or benefit data by MWh generation. The result of the quantitative analysis is a merit-order ranking of all complete and conforming Proposals' Net Market Values that help define the preliminary Short-List.

Following the quantitative analysis, SCE conducts an assessment of the most competitive Proposals' qualitative attributes. SCE utilizes the Project Viability Calculator to assess certain factors including the company/development team experience, project technology, project financing and development milestones. Additional attributes such as nominal contract payments, contribution to other SCE program goals, transmission area, prior experience with project developers/sellers, seller concentration, and resource diversity are also considered in the qualitative analysis. If a Community Renewables procurement need is identified, eligibility for the Community Renewables program and Community Renewables Environmental Justice Resource status will also be considered. These qualitative attributes are then considered to either eliminate or add Proposals to the Short-List, or to determine tie-breakers, if any.

Following its analysis, SCE consults with its PRG regarding the Short-List and specific evaluation criteria. SCE will then develop a final Short-List and negotiate with the Short-Listed Sellers after notification of Short-Listing.

SCE, in its sole discretion, reserves the right to enter into Final Agreements with as many Sellers as SCE chooses, including the right to not enter into any Final Agreements at all. Whether a Proposal selected through this process results in an executed contract depends on the outcome of negotiations between SCE and Sellers and where Seller's Proposal pricing ranks based on the criteria set forth herein. Periodically, SCE updates the PRG regarding the progress of negotiations. Finally, SCE executes contracts and submits them to the CPUC for approval via advice letter filings.

For a more detailed discussion of the LCBF methodology, please see the LCBF Methodology document located on the SCE RPS Solicitation Website.

*** End of ARTICLE FIVE ***

ARTICLE SIX. SHORT-LISTING

6.1 Minimum Requirements

Sellers are required to follow all of the instructions contained in this Procurement Protocol and the Associated Documents and subsequent amendments in order to be eligible to compete in the solicitation process.

6.2 Upon Notification of Selection for the SCE Short-List

- (a) If SCE notifies Seller that its Proposal has been selected for SCE's Short-List and Seller would like to continue in the solicitation process, Seller must provide to SCE a **Red-line to the Pro Forma PPA or REC Purchase Agreement** showing changes Seller wishes to negotiate with SCE. The *Pro Forma* PPA and REC Purchase Agreement are located on the SCE RPS Solicitation Website. Sellers are reminded that a finite amount of time is allotted for the negotiation of the Final Agreement as outlined in the RPS Solicitation Schedule.
- (b) As soon as possible after Short-List notification, if required, Seller shall submit to SCE all the elements of Exhibit B to the Renewable PPA as outlined in the Renewable PPA and include:

ERR Generating Facility Description

- ✓ Name and address of the ERR Generating Facility;
- ✓ General description and location of the Site;
- ✓ Specific description of the technology; and
- ✓ Table containing detailed project specifications and exact counts as applicable.

Site Plan Drawing

- ✓ Plan view of the ERR Generating Facility; and
- ✓ Major equipment components in their exact locations.

Single Line Drawing

- ✓ Up-to-date, stamped by a Professional Engineer whose certification is in force, and match the latest project characteristics: 1. Equipment clearly illustrated; 2. Electrical system; 3. Generators; 4. Unit and service transformers; 5. Interconnection transformers; 6. Metering; 7. Breakers; and 8. Disconnects;
- ✓ A station service transformer on the project's side of the meter;
- ✓ For solar PV projects, each typical solar array must be shown or described; and

- ✓ The Interconnection Point, as defined in the PPA clearly illustrated.

Site Map

Legal Description of the Site

- ✓ Derived from the registered deed for the property.
- ✓ APNs for the Project's site.

- (c) If Seller's Proposal has been selected for SCE's Short-List and Seller does not wish to continue in the ~~2016~~2018 solicitation process, SCE requests that Seller withdraw its Proposal from this RPS Solicitation in writing (via the RPS Solicitation Website) within ten (10) Business Days after the Short-List notification from SCE.
- (d) If a Seller's Proposal has *not* been selected for SCE's Short-List, SCE will notify Seller (via the RPS Solicitation Website) no later than ten (10) Business Days following the date that SCE notifies all Sellers selected for the Short-List of their selection.
- (e) SCE, in its sole discretion, reserves the right to execute Final Agreements with as many Sellers or Buyers as SCE chooses including the right to choose not to enter into any Final Agreements. SCE may exercise this right at any time including, without limitations, prior to, during or at the conclusion of negotiations with shortlisted projects.

*** End of ARTICLE SIX ***

ARTICLE SEVEN.

SELLER'S REPRESENTATIONS AND WARRANTIES

- 7.1 By submitting the Seller's Officer's Certificate to SCE as part of a complete and conforming Proposal package, the Seller represents and warrants that its offered Product Price or Contract Price assumes that Seller will post Development Security ~~and/or~~ Performance Assurance or other security, as applicable, equal to the amounts specified in the *Pro Forma* PPA.

*** End of ARTICLE SEVEN ***

ARTICLE EIGHT. REGULATORY APPROVAL

8.1 CPUC and FERC Approvals

SCE's obligations to purchase Product or sell RECs under a Final Agreement will only become effective upon CPUC Approval.

In the event a transaction occurs between SCE and any of its Affiliates, such Final Agreement may also require FERC approval. In such case, SCE's obligations to purchase power under such Final Agreement will only become effective upon approval by both the CPUC and FERC.

8.2 Support for Regulatory Purposes

SCE may request that Seller provide updates of any information requested in this RPS Solicitation for purposes of filing applications or advice letters with the CPUC for approval of any Final Agreement.

*** End of ARTICLE EIGHT ***

ARTICLE NINE. CONFIDENTIALITY, CONDUCT, AND SAFETY

9.1 Confidentiality

Sellers are required to enter into the Evergreen Non-Disclosure Agreement with SCE in the form posted on the SCE RPS Solicitation Website.

9.2 Conduct

It is expected that the Parties will act in good faith in their dealings with each other with respect to this RPS Solicitation. Seller may not engage in Communications (as defined in Article Ten) with any other Seller in the RPS Solicitation concerning the price terms contained in their Proposal or related matters.

9.3 Safety

Seller must develop a written plan for the safe construction and operation of the ERR Generating Facility as set forth in the Renewable PPA.

*** End of ARTICLE NINE ***

ARTICLE TEN. WAIVERS AND RESERVATION OF RIGHTS

10.1 Termination of RPS Solicitation

SCE reserves the right at any time to modify any dates specified in this RPS Solicitation or abandon this RPS Solicitation without notice, without assigning any reasons, and without liability of Edison International, SCE or any of their subsidiaries, affiliates or representatives to any Seller.

SCE will not be deemed to have accepted any Proposal, and will not be bound by any term thereof, unless and until authorized representatives of SCE and Seller execute a Final Agreement and, if appropriate, related collateral and other required agreements.

In the event that SCE terminates this RPS Solicitation, Seller shall be responsible for any expenses incurred by Seller as a result of this RPS Solicitation.

10.2 Release of SCE for any Delays

Seller acknowledges that except for SCE's obligation to submit a fully executed Final Agreement to the CPUC for approval, Seller bears sole responsibility for submitting all applications and obtaining all permits, leases or mortgages, and interconnection, financing and other agreements necessary for Seller to perform under a Final Agreement.

Seller further acknowledges and agrees that SCE shall have no liability for the:

- (a) Time required to complete any studies, obtain any required permits for ERR Generating Facility operation, or enter into any agreements discussed or contemplated under this RPS Solicitation (including without limitation interconnection studies, leases, mortgages, financing or permits);
- (b) Time required to perform construction for Network Upgrades necessary to meet the Commercial Operation Deadline;
- (c) Time to construct the ERR Generating Facility;
- (d) Time required to acquire any environmental permits to construct or operate, including acquisition of any emission credits required by law or regulation; or
- (e) Failure to reach agreement on, or time to reach agreement regarding, the use of SCE property for the Site.

10.3 Waived Claims

By submitting a Proposal, Seller knowingly, voluntarily, and completely waives any rights under statute, regulation, state or federal constitution or common law to assert

any claim, complaint or other challenge in any regulatory, judicial or other forum, including without limitation, the CPUC (except as expressly provided below), the FERC, the Superior Court of the State of California (“State Court”) or any United States District Court (“Federal Court”) concerning or related in any way to the RPS Solicitation or this Procurement Protocol, including all exhibits, attachments, and appendices thereto (“Waived Claims”). Seller further expressly acknowledges and consents that if it asserts any Waived Claim at the CPUC, FERC, State Court or Federal Court, or otherwise in any forum, to the extent that Seller’s Proposal has not already been disqualified, SCE is entitled to automatically disqualify this Proposal from further consideration in the RPS Solicitation or otherwise, and further, SCE may elect to terminate the RPS Solicitation.

By submitting a Proposal, Seller further agrees that the sole forum in which Seller may assert any challenge with respect to the conduct or results of the RPS Solicitation is at the CPUC. Seller further agrees that: (1) the sole means of challenging the conduct or results of the RPS Solicitation is a complaint filed under Article 3, Complaints and Commission Investigations, of Title 20, Public Utilities and Energy, of the California Code of Regulations, (2) the sole basis for any such protest shall be that SCE allegedly failed in a material respect to conduct the RPS Solicitation in accordance with this Procurement Protocol; and (3) the exclusive remedy available to Seller in the case of such a protest shall be an order of the CPUC that SCE again conduct any portion of the RPS Solicitation that the CPUC determines was not previously conducted in accordance with this Procurement Protocol (including any Associated Documents). Seller expressly waives any and all other remedies, including, without limitation, compensatory and/or exemplary damages, restitution, injunctive relief, interest, costs and/or attorneys’ fees. Unless SCE elects to do otherwise in its sole discretion, during the pendency of such a protest the RPS Solicitation and any related regulatory proceedings related to the RPS Solicitation will continue as if the protest had not been filed, unless the CPUC issues an order suspending the RPS Solicitation or SCE has elected to terminate the RPS Solicitation.

Seller further acknowledges and agrees that if Seller asserts any Waived Claim, SCE shall be entitled to seek immediate dismissal of Seller’s claim, complaint or other challenge, with prejudice, by filing a motion to dismiss (or similar procedural device) supported by the language in this Article Nine and that Seller will not challenge or oppose such a request for dismissal. Seller further acknowledges and agrees that if it asserts any Waived Claim, and if SCE successfully has that claim dismissed or transferred to the CPUC, Seller shall pay SCE’s full costs and expenses incurred in seeking such dismissal or transfer, including reasonable attorneys’ fees.

Seller agrees to indemnify, defend and hold harmless SCE from any and all claims by any other Seller asserted in response to the assertion of any Waived Claim by Seller or as a result of a Seller’s protest to a filing at the CPUC resulting from the RPS Solicitation.

Except as expressly provided in this Procurement Protocol, nothing in the Procurement Protocol, including Seller's waiver of any Waived Claims as set forth above, shall in any way limit or otherwise affect the rights and remedies of SCE.

*** *End of ARTICLE TEN* ***

ARTICLE ELEVEN. COMMUNICATIONS

- 11.1 For purposes of this RPS Solicitation, “Communications” means the exchange of any material information by electronic, written, oral or other means other than as expressly provided for herein.

All Communications concerning this RPS Solicitation, including Communications concerning the preparation of Proposals or other submissions to SCE related to the RPS Solicitation, should be submitted to SCE via the RPS Solicitation Website.

SCE may, in its sole discretion, decline to respond to any correspondence or other inquiry without liability or responsibility.

*** *End of ARTICLE ELEVEN* ***

ARTICLE TWELVE. SCE RIGHTS AND DOCUMENT CONFLICTS

12.1 SCE's Rights

SCE may, at its sole discretion, enter into Final Agreements with one or more entities submitting Proposals that will provide the best value to SCE's customers considering a variety of factors.

SCE reserves the right to reject any Proposal at any time on the grounds that it does not conform to the terms and conditions of this Procurement Protocol.

SCE also retains the right, in its sole judgment, to:

- (a) Subject to D.14-11-042, modify this Procurement Protocol, and any of the Associated Documents, as it deems necessary;
- (b) Condition SCE's acceptance of any selected Proposal on a Seller's agreement to modifications thereto including any modifications that may be recommended by SCE's PRG; and
- (c) Determine what is or is not "reasonable," as this term is used within this Procurement Protocol.

12.2 Document Conflicts

In the event of any conflict between terms contained in this Procurement Protocol or any of the Associated Documents, the conflict will be resolved by the following priority of documents:

- (a) The *Pro Forma* PPA or REC Purchase Agreement;
- (b) The CAISO Tariff; and
- (c) This Procurement Protocol;

Notwithstanding the foregoing, if a Final Agreement is executed between SCE and Seller, it will have precedence over the documents listed above.

*** *End of ARTICLE TWELVE* ***

PUBLIC APPENDIX I.1

Pro Forma Renewable Energy Credits Sales Agreement

REC SALES CONFIRMATION*between***SOUTHERN CALIFORNIA EDISON COMPANY***and***[INSERT NAME OF BUYER]**

This REC Sales Confirmation (“Confirmation”) confirms the transaction (“Transaction”) between **Southern California Edison Company** (“Seller” or “SCE”) and **[Insert name of Buyer]** (“Buyer”), each individually a “Party” and together the “Parties”, effective as of _____, 201__ (the “Confirmation Effective Date”). This Transaction is governed by the Edison Electric Institute (“EEI”) Master Power Purchase and Sale Agreement between the Parties, effective as of [Date], along with the Cover Sheet, any amendments and annexes thereto (the “Master Agreement”), and including, the EEI Collateral Annex to the Master Agreement along with the Paragraph 10 to the Collateral Annex between the Parties (such Paragraph 10 and the Collateral Annex are both referred to herein as the “Collateral Annex”) (the Master Agreement and the Collateral Annex shall be collectively referred to as the “EEI Agreement”). The EEI Agreement and this Confirmation shall be collectively referred to herein as the “Agreement”. Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the EEI Agreement or the Tariff. If any defined term in this Confirmation conflicts with the same defined term in the Tariff or EEI Agreement, the definition set forth in this Confirmation shall supersede.

**ARTICLE 1
COMMERCIAL TERMS**

Seller: SOUTHERN CALIFORNIA EDISON COMPANY		Buyer:
Trading:	<div><div><u>Seller</u></div><div>Day Ahead: 626-307-4425 Real Time: 626-307-4453 Contact information is for convenience and is subject to change by notice.</div></div> <div><div><u>Buyer</u></div></div>	
Scheduling:	<div><div><u>Seller</u></div><div>Day Ahead: 626-307-4425 Real Time: 626-307-4453 Contact information is for convenience and is subject to change by notice.</div></div> <div><div><u>Buyer</u></div></div>	
Product:	The Product is a Firm Delivery Obligation of California RPS-Eligible Electric Energy and associated Green Attributes.	

	During the Delivery Period, Seller shall deliver and sell, and Buyer shall purchase and receive, the Product, subject to the terms and conditions of this Confirmation. Seller shall not substitute or purchase any Green Attributes from any generating resource other than the Project for delivery hereunder.
Project:	<p>All Product sold hereunder shall be from one or more of the generating facilities listed in <u>Exhibit A</u> (collectively, the “Project”).</p> <p>The Parties acknowledge and agree that the Project consists of one or more generating facilities and that Seller is permitted to utilize any one or more of these generating facilities in order to satisfy its obligations hereunder.</p> <p>The Parties further acknowledge and agree that, with respect to Section 3.2(a) of this Confirmation, Product shall solely be limited to the actual Product generated and delivered by the generating facility(ies) used to satisfy the Contract Quantity, and that Buyer is not entitled to any additional Product or other attributes related to the Product produced by the generating facility(ies) in the Project above and beyond the Contract Quantity.</p> <p>Subject to Buyer’s consent, not to be unreasonably withheld, Seller may include additional generating facility(ies) in the Project such that Seller is permitted to utilize such additional generating facility(ies) to satisfy its obligations hereunder, provided that Seller notifies Buyer of the additional generating facility(ies) at least two (2) Business Days prior to such addition.</p>
Contract Capacity	“Contract Capacity” shall be equal to the Contract Quantity divided by the number of hours between the start of the Delivery Period and the end of the day on _____, 20____, rounded up to the nearest whole MW.
Contract Quantity:	“Contract Quantity” shall be equal to _____ GWh.
Contract Price:	<p>“Contract Price” shall be Index plus the REC Price.</p> <p>“REC Price” shall be \$/____MWh.</p>
Term:	The Term of this Transaction shall commence upon the Confirmation Effective Date and shall continue until delivery by Seller to Buyer of the Contract Quantity of the Product has been completed and all other obligations of the Parties under this Agreement have been satisfied, unless terminated earlier due to failure to satisfy the Conditions Precedent or as otherwise provided in the Agreement (“Term”).
Delivery Period:	Subject to the occurrence of the Condition Precedent Satisfaction Date, the Delivery Period of this Transaction shall commence on the tenth (10 th) Business Day after the Condition Precedent Satisfaction Date and shall continue through _____, 20____.
Delivery Point:	Seller shall deliver the Product at the CAISO Aggregated Pricing Node.

Firm Delivery Obligation:	<p>“Firm Delivery Obligation” shall have the following meaning:</p> <p>The obligation to provide the Contract Quantity is a firm obligation in that Seller shall deliver the Contract Quantity of the Product from the Project consistent with the terms of this Confirmation without excuse other than Force Majeure, provided that, for purposes of this Confirmation, Force Majeure does not include the lack of wind, sun or other fuel source of an inherently intermittent nature. If a failure by Seller to deliver the Contract Quantity from the Project by the end of the Delivery Period is not excused by Force Majeure, Article 4 of the Master Agreement shall apply.</p> <p>Seller shall convey title to and risk of loss of all CAISO Energy to Buyer at the Delivery Point.</p>
Scheduling Obligations:	<p>Seller shall schedule to the Buyer the Contract Capacity, or in the event Seller provides any Product as a Make-Up Amount in accordance with Section 3.3 of this Confirmation, the Adjusted Contract Capacity, as an IST-APN in the Integrated Forward Market at the Delivery Point on a Day-Ahead basis in accordance with the Tariff (the “Seller’s Scheduling Obligations”).</p> <p>Buyer shall accept Seller’s schedule of the Contract Capacity or the Adjusted Contract Capacity (if applicable), by entering the schedule as an IST-APN in the Integrated Forward Market at the Delivery Point on a Day-Ahead basis in accordance with the Tariff (the “Buyer’s Scheduling Obligations”).</p>
Scheduling Period:	<p>“Scheduling Period” means each hour of the Delivery Period.</p>
Seller Regulatory Obligations:	<p>Within ninety (90) days after the Confirmation Effective Date, SCE shall file with the CPUC the appropriate request for CPUC Approval. <i>{SCE Comment: Please note that CPUC D.07-11-025 does not allow for any extensions to the ninety (90) day filing requirement}</i> SCE shall expeditiously seek CPUC Approval, including promptly responding to any requests for information related to the request for CPUC Approval. As requested by SCE, Buyer shall use commercially reasonable efforts to support SCE in obtaining CPUC Approval. SCE has no obligation to seek rehearing or to appeal a CPUC decision which fails to approve this Agreement or which contains findings required for CPUC Approval with conditions or modifications unacceptable to either Party.</p>
Conditions Precedent:	<p>The commencement of delivery of the Product and the obligation of Buyer to pay for the Product shall be contingent upon CPUC Approval of this Confirmation (the “Conditions Precedent”). Either Party, in its sole discretion, has the right to terminate this Confirmation upon notice in accordance with Section 10.7 of the Master Agreement, which such notice will be effective one (1) Business Day after such notice is given, if: (i) the CPUC issues a final and non-appealable order regarding this Confirmation which contains conditions or modifications unacceptable to either Party, or (ii) CPUC Approval of this Confirmation has not been obtained on or before the date that is three hundred sixty-five (365) days after the date that SCE files the request for CPUC Approval, and a notice of termination in accordance with Section 10.7 of the Master Agreement is given on or before the three hundred ninety-fifth (395th) day after SCE files the request for CPUC Approval.</p>

	<p>Any termination made by a Party under this “Conditions Precedent” section shall be without liability or obligation to the other Party.</p> <p>Notwithstanding any other provision in this Confirmation, Seller will have no obligation to transfer Product to Buyer and Buyer shall have no obligation to receive or pay for the Product unless and until Seller and Buyer have obtained or waived, in their sole discretion, CPUC Approval of this Confirmation.</p>
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ARTICLE 2 DEFINITIONS

“Adjusted Contract Capacity” has the meaning set forth in Section 3.3 of this Confirmation.

“Agreement” has the meaning set forth in the preamble of this Confirmation.

“ACH” means the electronic funds transfer system operated by the National Automated Clearing House, or any successor entity.

“Buyer” has the meaning set forth in the preamble of this Confirmation.

“Confirmation Effective Date” has the meaning set forth in the preamble of this Confirmation.

“CAISO” means the California Independent System Operator, or its successor.

“CAISO Aggregated Pricing Node” means _____. *[SCE Comment: Seller to insert the name of the aggregated pricing node within CAISO.]*

“CAISO Energy” means “Energy” as defined in the Tariff.

“Calculation Period” means each calendar month during the Delivery Period.

“California RPS-Eligible Electric Energy” means electric energy from an Eligible Renewable Energy Resource, as such term is defined in Public Utilities Code Section 399.12 and 399.16.

“CEC” means the California Energy Commission or its regulatory successor.

“Condition Precedent” has the meaning set forth in Article 1 of this Confirmation.

“Condition Precedent Satisfaction Date” means the date on which CPUC Approval has been obtained.

“Confirmation” has the meaning set forth in the preamble of this Confirmation.

“Contract Capacity” has the meaning set forth in Article 1 of this Confirmation.

“Contract Price” has the meaning set forth in Article 1 of this Confirmation.

“Contract Quantity” has the meaning set forth in Article 1 of this Confirmation.

“Confirmation Effective Date” has the meaning set forth in the preamble of this Confirmation.

“CPUC” means the California Public Utilities Commission or its regulatory successor.

“CPUC Approval” means a decision of the CPUC that (i) is final and no longer subject to appeal, which approves the Agreement in full and in the form presented on terms and conditions acceptable to SCE in its sole discretion, including terms and conditions related to cost recovery and cost allocation of amounts paid to Seller under the Agreement; and (ii) does not contain conditions or modifications unacceptable to SCE, in SCE’s sole discretion.

“Day-Ahead” has the meaning set forth in the Tariff.

“Delivery Point” has the meaning set forth in Article 1 of this Confirmation.

“Delivery Period” has the meaning set forth in Article 1 of this Confirmation.

“EEI Agreement” has the meaning set forth in the preamble of this Confirmation.

“ERR” has the meaning set forth in Section 6.1(a) of this Confirmation.

“Firm Delivery Obligation” has the meaning set forth in Article 1 of this Confirmation.

“Green Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and its avoided emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as:

- (1) Any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO) and other pollutants;
- (2) Any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere;¹
- (3) The reporting rights to these avoided emissions, such as Green Tag Reporting Rights.

Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser’s discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of energy.

Green Attributes do not include:

- (i) Any energy, capacity, reliability or other power attributes from the Project,
- (ii) Production tax credits associated with the construction or operation of the Project and other financial incentives in the form of credits, reductions, or allowances associated with the Project that are applicable to a state or federal income taxation obligation,
- (iii) Fuel-related subsidies or “tipping fees” that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or
- (iv) Emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits.

If the Project is a biomass or biogas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Green Attributes to ensure that there are zero (0) net emissions associated with the production of electricity from the Project.

¹ Avoided emissions may or may not have any value for GHG compliance purposes. Although avoided emissions are included in the list of Green Attributes, this inclusion does not create any right to use those avoided emissions to comply with any GHG regulatory program.

“Index” means, for each Scheduling Period, the CAISO Integrated Forward Market Day-Ahead price for the CAISO Aggregated Pricing Node for each applicable hour as published by the CAISO on the CAISO website; or any successor thereto, unless a substitute publication and/or index is mutually agreed to by the Parties.

“Integrated Forward Market” has the meaning set forth in the Tariff.

“Make-Up Amount” has the meaning set forth in Section 3.3 of this Confirmation.

“Master Agreement” has the meaning set forth in the preamble of this Confirmation.

“Monthly Cash Settlement Amount” has the meaning set forth in Article 4 of this Confirmation.

“Product” has the meaning set forth in Article 1 of this Confirmation.

“Project” has the meaning set forth in Article 1 of this Confirmation.

“Purchaser’s Scheduling Obligations” has the meaning set forth in Article 1 of this Confirmation.

“REC Price” has the meaning set forth in Article 1 of this Confirmation.

“Renewable Energy Credit” or “REC” has the meaning set forth in CPUC Decision 08-08-028, as such definition may be modified by the CPUC or applicable law from time to time.

“RPS” means the California Renewables Portfolio Standard Program as codified at California Public Utilities Code Section 399.11 *et seq.*, and any decisions by the CPUC related thereto.

“Scheduling Obligations” means Purchaser’s Scheduling Obligations and Seller’s Scheduling Obligations.

“Seller” has the meaning set forth in the preamble of this Confirmation.

“Seller’s Scheduling Obligations” has the meaning set forth in Article 1 of this Confirmation.

“Tariff” means the California Independent System Operator Corporation Tariff, Business Practice Manuals (BPMs), Operating Agreements, and Operating Procedures, including the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time to time and approved by FERC, if applicable.

“Term” has the meaning set forth in Article 1 of this Confirmation.

“Transaction” has the meaning set forth in the preamble of this Confirmation.

“Under-delivered Product” has the meaning set forth in Section 3.3 of this Confirmation.

“Vintage” means the calendar year the WREGIS Certificate is associated with through the generation of electric energy.

“WREGIS” means the Western Renewable Energy Generation Information System or other process recognized under applicable laws for the registration, transfer or ownership of Green Attributes.

“WREGIS Certificate” means “Certificate” as defined by WREGIS in the WREGIS Operating Rules.

“WREGIS Operating Rules” means the operating rules and requirements adopted by WREGIS.

ARTICLE 3

CONVEYANCE OF RENEWABLE ENERGY

3.1 Seller’s Conveyance of Electric Energy

Beginning on the first day of the Delivery Period and throughout all applicable months of the

Delivery Period, Seller shall deliver and sell, and Buyer shall purchase and receive, the electric energy associated with the Product, subject to the terms and conditions of this Confirmation. Buyer will not be obligated to purchase from Seller any Product that is not or cannot be delivered as a result of Force Majeure.

3.2 Seller's Conveyance Of Green Attributes

(a) Green Attributes

Seller hereby provides and conveys all Green Attributes associated with all electricity generation from the Project to Buyer as part of the Product being delivered. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Project, and Seller agrees to convey and hereby conveys all such Green Attributes to Buyer as included in the delivery of the Product from the Project.

The Green Attributes are delivered and conveyed upon completion of all actions described in Section 3.2(b) below.

(b) Green Attributes Initially Credited to Seller's WREGIS Account

- (1) During the Delivery Period, Seller, at its own cost and expense, shall maintain its registration with WREGIS. All Green Attributes transferred by Seller hereunder shall be designated California RPS-compliant with WREGIS. Seller shall, at its sole expense, use WREGIS as required pursuant to the WREGIS Operating Rules to effectuate the transfer of Green Attributes to Buyer in accordance with WREGIS reporting protocols and WREGIS Operating Rules.
- (2) For each applicable month of the Delivery Period, Seller shall deliver and convey the Green Attributes associated with the electric energy delivered pursuant to Section 3.1 above within thirty (30) days after the WREGIS Certificates for the Green Attributes are created. Seller shall deliver and convey such Green Attributes by properly transferring such WREGIS Certificates, in accordance with the rules and regulations of WREGIS, equivalent to the quantity of Green Attributes, to Buyer into Buyer's WREGIS account such that all right, title and interest in and to the WREGIS Certificates shall transfer from Seller to Buyer; provided further, that if Seller fails to properly transfer such WREGIS Certificates to Buyer in accordance with the above due to an error or omission of an administrative or clerical nature and if such failure can be cured with no harm to Buyer, then Seller may cure such failure within thirty (30) days after notice of such failure.
- (3) In addition to its other obligations under this Section 3.2, Seller shall convey to Buyer WREGIS Certificates from the Project that are of the same Vintage as the California RPS-Eligible Electric Energy that was provided under Section 3.1 of this Confirmation.

3.3 Delayed Delivery of Product

In the event Seller is unable to deliver any portion of the Contract Quantity, during any particular portion of the Delivery Period for any reason (such amount of Product being referred to herein as "Under-delivered Product"), Seller shall be permitted to increase the amount of Product it provides during any remaining portion of the Delivery Period (the "Make-Up Amount") by increasing the Contract Capacity scheduled during the remaining portion of the Delivery Period (the "Adjusted Contract Capacity"). The aggregate amount of Product provided during the Delivery Period as part

of any Make-Up Amount shall (a) be equivalent to the amount of Under-delivered Product, such that Seller will provide Product to Buyer in an aggregate amount equal to the Contract Quantity over the entire Delivery Period in accordance with this Confirmation, (b) be Product from the Project, and (c) be provided during the Delivery Period. In the event that there is any Under-delivered Product at any point in time during the Delivery Period, (i) such fact shall not constitute an Event of Default, and (ii) Section 4.1 of the Master Agreement shall not apply with respect to such fact until the Delivery Period has concluded, provided that, if at the end of the Delivery Period, the amount of Product, including any Product in the form of a Make-Up Amount, provided by Seller to Buyer is less than the Contract Quantity, then Section 4.1 of the Master Agreement will apply to the Under-delivered Product associated with such shortfall.

ARTICLE 4 COMPENSATION

4.1 Monthly Cash Settlement Amount

Buyer shall pay Seller the Monthly Cash Settlement Amount, in arrears, for each Calculation Period in the amount equal to the sum, over all hours of the Calculation Period, of the product, for each such hour, of (i) the Contract Price, multiplied by (ii) the quantity of CAISO Energy delivered to the Delivery Point and associated Green Attributes (whether or not such Green Attributes have been transferred in WREGIS as described below) during that hour. Such Monthly Cash Settlement Amount constitutes payment for the Product, including the Green Attributes, for such applicable Calculation Period. Buyer shall be obligated to make such payments with respect to each applicable Calculation Period notwithstanding the fact that the Green Attributes associated with a particular Calculation Period may be delivered or credited to Buyer's WREGIS account subsequent to the conclusion of the applicable Calculation Period in accordance with Section 3.2(b) of this Confirmation, provided that if Seller fails to comply with the provisions of Section 3.2(b), Buyer shall be entitled to exercise all rights and remedies available to Buyer under this Agreement for Seller's failure to deliver the Product.

4.2 Payment

Notwithstanding any provision to the contrary in Section 6.2 of the Master Agreement, payments of each Monthly Cash Settlement Amount by Buyer to Seller under this Confirmation shall be due and payable on or before the later of the twentieth (20th) day of the month in which the Buyer receives from Seller an invoice for the Calculation Period to which the Monthly Cash Settlement Amount pertains, or within ten (10) Business Days, or, if such day is not a Business Day, then on the next Business Day, following receipt of an invoice issued by Seller for the applicable Calculation Period.

Payment to Seller shall be made by ACH, or in another form reasonably requested, pursuant to the following:

JP Morgan Chase Bank
New York, NY
ABA: [_____]
ACCT: [_____]

4.3 Invoicing

Invoices to Buyer will be sent by hard copy and PDF format to:

[_____] -]

Attn:

Phone:

Facsimile:

For purposes of this Confirmation, Buyer shall be deemed to have received an invoice upon the receipt of either the hard copy or PDF format of the invoice, whichever comes first.

**ARTICLE 5
REPRESENTATIONS, WARRANTIES AND COVENANTS**

5.1 Seller's Representation, Warranties, and Covenants Related to Green Attributes

- (a) Seller, and, if applicable, its successors, represents and warrants that throughout the Term of this Agreement that:
- (i) The Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource ("ERR") as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and
 - (ii) The Project's output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard.

To the extent a change in law occurs after execution of this Confirmation that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.

"Commercially reasonable efforts" shall not require Seller to incur out-of-pocket expenses in excess of \$25,000 in the aggregate in any one calendar year.

- (b) Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in WREGIS will be taken prior to the first delivery of Product under this Agreement.
- (c) In addition to the foregoing, Seller warrants, represents and covenants, as of the Confirmation Effective Date and throughout the Term, that:
- (i) Seller has the right to sell all right, title, and interest in the Product agreed to be delivered hereunder;
 - (ii) Seller has not sold the Product to be delivered under this Confirmation to any other person or entity;
 - (iii) at the time of delivery, all rights, title, and interest in the Product to be delivered under this Confirmation are free and clear of all liens, taxes, claims, security interests, or other encumbrances of any kind whatsoever;
 - (iv) the electric energy generated with the Green Attributes delivered under this Confirmation was not and will not be separately sold, marketed, reported, or

otherwise represented as renewable energy, renewable electricity, clean energy, zero-emission energy, or in any similar manner; and

- (v) the Project and all electrical output from the Project is registered with WREGIS as California RPS-Eligible Electric Energy.

ARTICLE 6 GOVERNING LAW

6.1 Applicability to Transactions under this Confirmation

Notwithstanding Section 10.6 of the Master Agreement, for the purposes of the Transaction memorialized in this Confirmation, the provision set forth below will apply. This provision does not change the Governing Law applicable to any other Transaction entered into between the Parties under the Master Agreement.

6.2 Governing Law

THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. TO THE EXTENT ENFORCEABLE AT SUCH TIME, EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

ARTICLE 7 CREDIT AND COLLATERAL

7.1 General Provisions

To the extent that there are conflicting credit terms between the Master Agreement and this Confirmation, the credit and collateral terms set forth in this Confirmation shall prevail. All implied rights relating to financial assurances arising from Section 2-609 of the Uniform Commercial Code or case law applying similar doctrines, are hereby waived.

7.2 Collateral Requirements

Buyer shall meet its Fixed Independent Amount requirement of [insert dollar amount] {SCE Comment: Highest Monthly Cash Settlement Amount for two consecutive months} within five (5) Business Days following the Condition Precedent Satisfaction Date, with Buyer's Collateral Threshold or by posting Cash or Letter of Credit. This Fixed Independent Amount constitutes the sole Collateral Requirement for Buyer under this Confirmation, and shall be maintained throughout the Delivery Period until all Buyer's obligations have been satisfied under this Confirmation.

For avoidance of doubt, Collateral Requirement for Seller is zero under this Confirmation.

**ARTICLE 8
CONFIDENTIALITY**

Notwithstanding Section 10.11 (Confidentiality) of the Master Agreement and Cover Sheet, the Parties agree that a Party may also disclose the terms of this Transaction to WREGIS.

**ARTICLE 9
TERMINATION**

9.1 Termination Payment

If this Confirmation is terminated for any Event of Default, such termination shall be treated in accordance with Sections 5.2 and 5.3 of the Master Agreement and the corresponding Termination Payment may be netted against other Transactions between the Parties under the Master Agreement.

[Signatures are on the following page]

**ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE
DATE:**

[_____]

**SOUTHERN CALIFORNIA EDISON
COMPANY,**

a _____.

a California corporation.

By: _____

By: _____

Colin E. Cushnie

Vice President, Energy Procurement &
Management

Date: _____

Date: _____

EXHIBIT A

Name of Facility:	
Resource:	
Location:	
EIA-860 Number:	
CEC ID:	
WREGIS ID:	
CEC RPS Eligibility Date:	
On-line Date:	

Name of Facility:	
Resource:	
Location:	
EIA-860 Number:	
CEC ID:	
WREGIS ID:	
CEC RPS Eligibility Date:	
On-line Date:	

Resource:	
Location:	

ID# _____, [Insert Name of Buyer]

EIA-860 Number:	
CEC ID:	
WREGIS ID:	
CEC RPS Eligibility Date:	
On-line Date:	

Name of Facility:	
Resource:	
Location:	
EIA-860 Number:	
CEC ID:	
WREGIS ID:	
CEC RPS Eligibility Date:	
On-line Date:	

Name of Facility:	
Resource:	
Location:	
EIA-860 Number:	
CEC ID:	
WREGIS ID:	
CEC RPS Eligibility Date:	
On-line Date:	

{SCE COMMENT: Generating Facility information to be populated as necessary.}

PUBLIC APPENDIX I.2

SCE Cover Sheet to EEI Master Power Purchase and Sale Agreement

[THIS MASTER AGREEMENT IS SUBJECT TO SCE MANAGEMENT REVIEW AND APPROVAL]

**MASTER POWER PURCHASE AND SALE AGREEMENT
COVER SHEET**

This *Master Power Purchase and Sale Agreement* (Version 2.1; modified 4/25/00) (“*Master Agreement*”) is made as of the following date: ² (“Effective Date”). The *Master Agreement*, together with the exhibits, schedules and any written supplements hereto, the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support, margin agreement, or similar arrangement between the Parties and all Transactions (including any confirmations accepted in accordance with Section 2.3 hereto) shall be referred to as the “Agreement”. The Parties to this *Master Agreement* are the following:

Name: _____ (“Party A”)

All Notices:

Street:

City: _____ Zip: _____

Attn:

Phone:

Facsimile:

Duns:

Federal Tax ID Number:

Invoices:

Attn:

Phone:

Facsimile:

Scheduling:

Attn:

Phone:

Facsimile:

Payments:

Attn:

Phone:

Facsimile:

Wire Transfer:

BNK:

ABA:

ACCT:

Name: Southern California Edison Company (“Party B”)

All Notices:

Street: 2244 Walnut Grove Ave., G.O.1, Quad 1C

City: Rosemead, CA Zip: 91770

Attn: Director, Energy Contracts Management

Phone: (626) 302-3126

Facsimile: (626) 302-1103

Email: Energycontracts@sce.com

Duns: 006908818

Federal Tax ID Number: 95-1240335

Invoices:

Attn: EPM & Contract Settlements

Phone: (626) 302-8908

Facsimile: (626) 302-3276

Email: PPFDPowerSettle@sce.com

Scheduling:

Attn: Manager or Day Ahead Operations

Phone: (626) 307-4425 or (626) 307-4420

Facsimile: (626) 307-4413

E-mail: presched@sce.com

Payments:

Attn: EPM & Contract Settlements

Phone: 626-302-8908

Facsimile: (626) 302-3276

E-mail: PPFDPowerSettle@sce.com

Wire Transfer:

BNK: JP Morgan Chase Bank

ABA: 021000021

ACCT: 323-394434

¹ [SCE Comment: Green highlights are comments or instructions to be deleted prior to final execution.]

² [SCE Comment: Blue highlights indicate required information to be completed prior to final execution.]

Credit and Collections:

Attn:
Phone:
Facsimile:

Confirmations:

Attn:
Phone:
Facsimile:

Credit:

Attn: Manager of Credit Risk
Phone: (626) 302-3672

Confirmations:

Attn: Confirmation Coordinator
Phone: (626) 302-3383
Facsimile: (626) 302-3410
Email: SCERiskControl@sce.com

Collateral:

Southern California Edison Company
Attn: Manager of Risk Operations & Collateral
Management
2244 Walnut Grove Avenue, GO1 Quad 2A
Rosemead, CA 91770
Phone: (626) 302-3383
Email: SCECollateral@sce.com

**With additional Notices of an Event of Default or
Potential Event of Default to:**

Attn:
Phone:
Facsimile:

**With additional Notices of an Event of Default or
Potential Event of Default to:**

Southern California Edison Company
2244 Walnut Grove Ave., G.O.1, Quad 1C
Rosemead, CA 91770
Attn: Director, Contracts Management and
Administration
Phone: (626) 302-3126
Facsimile: (626) 302-8168
Email: Energycontracts@sce.com

and

Attention: Director and Managing Attorney Power
Procurement Section
E-mail: PPLegalNotice@sce.com

The Parties hereby agree that the General Terms and Conditions are incorporated herein, and to the following provisions as provided for in the General Terms and Conditions:

Party A Tariff Tariff _____ Dated _____ Docket Number _____

Party B Tariff Tariff Original Vol. No. 8 Dated 09/01/2002 Docket Number ER 02-2263-000

Article Two

Transaction Terms and Conditions ☒ Optional provision in Section 2.4. If not checked, inapplicable.

Article Four

Remedies for Failure to Deliver or Receive ☒ Accelerated Payment of Damages. If not checked, inapplicable.

Article Five

Events of Default;
Remedies

5.1(g) Cross Default for Party A:

☒ Party A: Cross Default Amount \$ [Amount and/or Methodology To Be Negotiated]

☐ Other Entity: [Guarantor, if applicable] Cross Default Amount \$ [Amount and/or Methodology To Be Negotiated]

5.1(g) Cross Default for Party B:

☒ Party B: Southern California Edison Company. Cross Default Amount \$200,000,000

☐ Other Entity: Not Applicable. Cross Default Amount \$ [Amount and/or Methodology To Be Negotiated]

5.6 Closeout Setoff

- ☒ Option A, as amended.
- ☐ Option B - Affiliates shall have the meaning set forth in the Agreement unless otherwise specified as follows: _____
- ☐ Option C (No Setoff).

Article Eight

[ARTICLE EIGHT PROVISIONS TO BE NEGOTIATED BY CREDIT GROUPS]

Credit and Collateral
Requirements

8.1 Party A Credit Protection:

(a) Financial Information:

- ☒ Option A, as amended.
- ☐ Option B Specify: _____
- ☐ Option C Specify: _____

(b) Credit Assurances:

- ☒ Not Applicable.
☐ Applicable.

(c) Collateral Threshold:

- ☐ Not Applicable.
☒ Applicable, as specified in **Paragraph 10 to the EEI Collateral Annex.**

(d) Downgrade Event:

- ☒ Not Applicable.
☐ Applicable.

If applicable, complete the following:

- ☐ It shall be a Downgrade Event for Party B if Party B's Credit Rating falls below _____ from S&P or _____ from Moody's or if Party B is not rated by any Ratings Agency.
☐ Other:
Specify: _____

(e) Guarantor for Party B: Not Applicable.

Guarantee Amount: Not Applicable.

8.2 Party B Credit Protection:

(a) Financial Information:

- ☒ Option A, as amended.
☐ Option B, as amended. Specify: [Guarantor or other party specified, if applicable] _____
☐ Option C Specify: _____

(b) Credit Assurances:

- ☒ Not Applicable.
☐ Applicable.

(c) Collateral Threshold:

- ☐ Not Applicable.
☒ Applicable, as specified in **Paragraph 10 to the EEI Collateral Annex.**

(d) Downgrade Event:

- ☒ Not Applicable.
☐ Applicable.

If applicable, complete the following:

☐ It shall be a Downgrade Event for Party A if Party A's Credit Rating falls below ____ from S&P or ____ from Moody's or if Party A is not rated by any Ratings Agency.

☐ Other:
Specify:

(e) Guarantor for Party A:

Guarantee Amount: \$ _____

Article Ten

Confidentiality

☒ Confidentiality Applicable. If not checked, inapplicable.

Schedule M

☐ Party A is a Governmental Entity or Public Power System.

☐ Party B is a Governmental Entity or Public Power System.

☐ Add Section 3.6. If not checked, inapplicable.

☐ Add Section 8.4. If not checked, inapplicable.

Other Changes

The following changes shall be applicable.

ARTICLE ONE: GENERAL DEFINITIONS. Amend Article One as follows:

Section 1.4 is amended by (i) deleting the word “or” in the first line, and (ii) inserting the words “, or the Friday immediately following the U.S. Thanksgiving holiday” immediately after “Bank holiday”.

Section 1.11 is amended by (i) deleting the words “attorneys’ fees and” and (ii) inserting the words “(excluding attorneys’ fees)” after the word “expenses” in the fifth line.

Section 1.12 is amended to read as follows:

“1.12 ‘Credit Rating’ means with respect to any entity, the rating then assigned to such entity’s unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancements) by the Ratings Agencies. If no rating is assigned to such entity’s unsecured, senior long-term debt or deposit obligations the Ratings Agencies, then ‘Credit Rating’ shall mean the general corporate credit rating or long-term issuer rating assigned to such entity by the Ratings Agencies. If any entity is rated by more than one Ratings Agency and the ratings are at different levels, then ‘Credit Rating’ means the lowest such rating.”

Section 1.24 is amended by inserting the words “in accordance with Section 5.2(b)” immediately after “reasonable manner”.

Section 1.27 is amended to read as follows:

“1.27 ‘Letter of Credit’ means an irrevocable, nontransferable standby letter of credit, substantially in the form of Schedule 1 and acceptable to Secured Party, issued by a major U.S. commercial bank, U.S. financial institution, or the U.S. branch office of a foreign bank with, in either case, a Credit Rating of at least A- by S&P or A3 by Moody’s. If such financial institution or bank is rated by more than one Ratings Agency and the ratings are at different levels, the lowest rating shall be the Credit Rating for this purpose. Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.”

Section 1.28 is amended by inserting the words “in accordance with Section 5.2(b)” immediately after “reasonable manner”.

Section 1.50 is amended by replacing the term “Section 2.4” with the term “Section 2.5”.

Section 1.51 is amended by (i) deleting the phrase “at the Delivery Point” and replacing it with “, from an entity that is not an Affiliate of either Party,”; (ii) in clause (ii) inserting after the phrase “at Buyer’s option,” the phrase “absent a purchase from an entity that is not an Affiliate of either Party,”; and (iii) in the last sentence thereof deleting the phrase “at the Delivery Point” and replacing it with “that is not an Affiliate of either Party”.

Section 1.53 is amended by (i) deleting the phrase “at the Delivery Point” and replacing it with “, to an entity that is not an Affiliate of either Party,”; (ii) in clause (ii) inserting after the phrase “at Seller’s option,” the phrase “absent a sale to an entity that is not an Affiliate of either Party,”; and (iii) in the last sentence thereof deleting the phrase “at the Delivery Point” and replacing it with “that is not an Affiliate of either Party”.

New Sections **[For Non-FTAA: 1.62, 1.63, 1.64, 1.65, 1.66, 1.67, and 1.68] [or for FTAA: 1.62, 1.63, 1.64, 1.65, 1.66, 1.67, 1.68, and 1.69]** are added to read as follows:

“1.62 ‘Forward Price Assessments’ means quotations solicited or obtained in good faith from regularly published and widely-distributed forward price assessments from a broker that is not an Affiliate of either Party and who is actively participating in markets for the relevant Products.”

“1.63 ‘Market Quotation Average Price’ means the arithmetic mean of the quotations solicited in good faith from not less than three (3) Reference Market-Makers (as hereinafter defined); provided, however, that the Party obtaining the quotes shall use reasonable efforts to obtain good faith quotations from at least five (5) Reference Market-Makers and, if at least five (5) such quotations are obtained, the Market Quotation Average Price shall be determined by disregarding the highest and lowest quotations and taking the arithmetic mean of the remaining quotations. The quotations shall be based on the offers to sell or bids to buy, as applicable, obtained for transactions substantially similar to each Terminated Transaction. The quote must be obtained assuming that the Party obtaining the quote will provide sufficient credit support for the proposed transaction. Each quotation shall be obtained in good faith by such Party, to the extent reasonably practicable, as of the same day and time (without regard to different time zones) on or as soon as reasonably practicable after the relevant Early Termination Date, such day and time as of which those quotations will be selected shall be specified in accordance with Section 5.2. If fewer than three (3) quotations are obtained, it will be deemed that the Market Quotation Average Price in respect of such Terminated Transaction or group of Terminated Transactions cannot be determined.”

“1.64 ‘Merger Event’ means, with respect to a Party or its Guarantor, that such Party or its Guarantor consolidates or amalgamates with, merges into or with, or transfers substantially all its assets to another entity and (i) the resulting entity fails to assume all the obligations of such Party hereunder or of such Party’s Guarantor under its guaranty, or (ii) the benefits of any credit support provided by such Party pursuant to Article Eight, or any guaranty provided by such Party’s Guarantor, fail to extend to the performance of such resulting, surviving or transferee entity’s obligations hereunder, or (iii) the resulting entity’s creditworthiness is materially weaker than that of such Party or its Guarantor immediately prior to such action. The creditworthiness of the resulting entity shall not be deemed to be ‘materially weaker’ so long as the resulting entity maintains a Credit Rating of at least that of the applicable Party or its Guarantor, as the case may be, immediately prior to the consolidation, merger or transfer.”

“1.65 ‘Ratings Agency’ means any of S&P and Moody’s, and any other ratings agency agreed by the Parties (collectively the ‘Ratings Agencies’).”

“1.66 ‘Reference Market-Maker’ means a leading dealer in the relevant market that is not an Affiliate of either Party and that is selected by a Party in good faith among dealers of the highest credit standing which satisfy all the criteria that such Party applies generally at the time in deciding whether to offer or to make an extension of credit. Such dealer may be represented by a broker.”

“1.67 ‘Specified Energy Transaction’ means any transaction (including an agreement with respect to any such transaction) now existing or hereafter entered into between Party A and Party B (or any Guarantor of such Party) which is not a Transaction under this Agreement, which is a transaction under the International Swaps and Derivatives Association Master Agreement, the North American

Energy Standards Board Base Contract for Purchase and Sale of Natural Gas, the WSPP Agreement, or under any other agreement with respect to the purchase, sale, or transfer of (a) wholesale physical electric energy, capacity, ancillary services or resource adequacy benefits; (b) wholesale physical natural gas; (c) transmission services or capacity, (d) emissions (including greenhouse gas emissions) related credits, allowances or offsets, or (e) financial derivative products related to any of the foregoing.”

[For FTAA: “1.69 ‘FTAA’ means the Fund Transfer Annex Agreement between Party A and Party B as incorporated by Addendum A to this Master Agreement.”]

ARTICLE TWO: TRANSACTION TERMS AND CONDITIONS. Amend Article Two as follows:

Section 2.1 is amended by adding the following sentence to the end thereof “Any Transaction formed and effectuated pursuant to the foregoing shall be considered a ‘writing’ or ‘in writing’ and to have been ‘signed’ by each Party or otherwise binding on the Parties.”

Section 2.2 is amended to delete the second comma after the words “supplements hereto),” and before “the Party” in the second sentence.

Section 2.4 is amended by (i) deleting the words “either orally or” after the phrase “Section 2.3 unless agreed to” in the second to last line thereof.

Section 2.5 is amended (i) to delete the phrase “Unless a Party expressly objects to a Recording (defined below) at the beginning of a telephone conversation,”; (ii) by capitalizing the word “each” in the first sentence; and (iii) replacing the words “Parties to this Master Agreement” with “Parties’ trading and marketing personnel”.

A new Section 2.6 is added to read as follows:

“2.6 Imaged Agreement. Any original executed Master Agreement, Confirmation or other related document may be photocopied and stored on computer tapes and disks (the ‘Imaged Agreement’). The Imaged Agreement, if introduced as evidence on paper, the Confirmation, if introduced as evidence in automated facsimile form, the Recording, if introduced as evidence in its original form and as transcribed onto paper or into other written format, and all computer records of the foregoing, if introduced as evidence in printed format, in any judicial, arbitration, mediation or administrative proceedings, will be admissible as between the Parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither Party shall object to the admissibility of the Recording, the Confirmation, or the Imaged Agreement (or photocopies of the transcription of the Recording, the Confirmation, or the Imaged Agreement) on the basis that such were not originated or maintained in documentary or written form under either the hearsay rule or the best evidence rule. However, nothing in this Section 2.6 shall preclude a Party from challenging the admissibility of such evidence on some other grounds, including, without limitation, the basis that such evidence has been materially or substantially altered from the original.”

ARTICLE THREE: OBLIGATIONS AND DELIVERIES. Amend Article Three as follows:

A new Section 3.4 is added to read as follows:

“3.4 Index Transactions. If the Contract Price for a Transaction is determined by reference to an index, then the following provisions shall be applicable to such Transaction.

- (a) Market Disruption. If a Market Disruption Event occurs during a Determination Period, the Floating Price for the affected Trading Day(s) shall be determined by reference to the Floating Price specified in the Transaction for the first Trading Day thereafter on which no Market Disruption Event exists; provided, however, if the Floating Price is not so determined within three (3) Business Days after the first Trading Day on which the Market Disruption Event occurred or existed, then the Parties shall negotiate in good faith to agree on a Floating Price (or a method for determining a Floating Price), and if the Parties have not so agreed on or before the twelfth Business Day following the first Trading Day on which the Market Disruption Event occurred or existed, then the Floating Price shall be determined in good faith by taking the average of the price quotations for the relevant commodity and relevant Business Days that are obtained from no more than two (2) Reference Market-Makers selected by each Party.
- (b) For purposes of this Section 3.4, the following definitions shall apply:
- (i) ‘Determination Period’ means each calendar month a part or all of which is within the Delivery Period of a Transaction.
 - (ii) ‘Exchange’ means, in respect of a Transaction, the exchange or principal trading market specified in the relevant Transaction.
 - (iii) ‘Floating Price’ means a price per unit in \$U.S. specified in a Transaction that is based upon a Price Source.
 - (iv) ‘Market Disruption Event’ means, with respect to any Price Source, any of the following events: (a) the failure of the Price Source to announce or publish the specified Floating Price or information necessary for determining the Floating price; (b) the failure of trading to commence or the permanent discontinuation or material suspension of trading in the relevant options contract or commodity on the Exchange or in the market specified for determining a Floating Price; (c) the temporary or permanent discontinuance or unavailability of the Price Source; (d) the temporary or permanent closing of any Exchange specified for determining a Floating Price; or (e) a material change in the formula for or the method of determining the Floating Price.
 - (v) ‘Price Source’ means, in respect of a Transaction, the publication (or such other origin of reference, including an Exchange) containing (or reporting) the specified price (or prices from which the specified price is calculated) specified in the relevant Transaction.
 - (vi) ‘Trading Day’ means a day in respect of which the relevant Price Source published the Floating Price.
- (c) Corrections to Published Prices. For purposes of determining a Floating Price for any day, if the price published or announced on a given day and used or to be used to determine a relevant price is subsequently corrected and the correction is published or announced by the person responsible for that publication or announcement within twelve (12) months of the original publication or announcement, either Party may notify the other Party of (i)

that correction and (ii) the amount (if any) that is payable as a result of that correction. If, not later than thirty (30) days after publication or announcement of that correction, a Party gives notice that an amount is so payable, the Party that originally either received or retained such amount will, not later than ten (10) Business Days after the effectiveness of that notice, pay, subject to any applicable conditions precedent, to the other Party that amount, together with interest at the Interest Rate for the period from and including the day on which payment originally was (or was not) made to but excluding the day of payment of the refund or payment resulting from that correction.

- (d) Calculation of Floating Price. For the purposes of the calculation of a Floating Price, all numbers shall be rounded to three (3) decimal places. If the fourth (4th) decimal number is five (5) or greater, then the third (3rd) decimal number shall be increased by one (1), and if the fourth (4th) decimal number is less than five (5), then the third (3rd) decimal number shall remain unchanged.”

ARTICLE FIVE: EVENTS OF DEFAULT; REMEDIES. Amend Article Five as follows:

Section 5.1(e) is amended by adding after the word “hereof” the phrase “or any other credit arrangement, including, but not limited to, the Collateral Annex (or any similar agreement) related to this Agreement”.

Section 5.1(f) is amended to read as follows:

“(f) a Merger Event occurs with respect to such Party or its Guarantor, if applicable;”

Section 5.1(h)(iv) is amended by inserting the words “made in connection with this Agreement” after the first instance of the word “guaranty”.

Section 5.1(h)(v) is amended by inserting the words “made in connection with this Agreement” after the word “guaranty”.

Section 5.1 is amended by adding the following **[For Non-FTAA: Sections 5.1(i) and 5.1(j)]****[or for FTAA: Sections 5.1(i), 5.1(j), and 5.1(k)]** at the end thereof:

“(i) an event of default occurs (howsoever determined) under a Specified Energy Transaction with respect to such Party and, after giving effect to any applicable notice requirement or grace period, there occurs a liquidation of, an acceleration of obligations under, or an early termination of that Specified Energy Transaction; or

(j) the Party disaffirms, disclaims, repudiates, or rejects, in whole or in part, or challenges the validity of, this Master Agreement, any Confirmation executed and delivered by that Party, or any Transaction evidenced by such a Confirmation.

[For FTAA: (k) it shall be an Event of Default of Party A if Party A fails to comply with the terms of the FTAA.]”

Section 5.2 is amended by (i) inserting “(a)” at the beginning thereof; (ii) reversing the placement of “(i)” and “to”; (iii) inserting after the words “designate a day” the words “and time of day” in clause (i) thereof; (iv) replacing the phrase “as soon thereafter as is reasonably practicable)” with “, then each such Transaction — individually, an ‘Excluded Transaction’ and collectively, the ‘Excluded Transactions’— shall be terminated as soon thereafter as is reasonably practicable, and upon termination shall be deemed to be a Terminated Transaction) and the Termination Payment payable in connection with all Terminated Transactions shall be calculated in accordance with this

Section 5.2 and with Section 5.3 below”; and (v) adding the following paragraph at the end thereof:

“(b) The Non-Defaulting Party shall determine its Gains and Losses by determining the Market Quotation Average Price for each Terminated Transaction. In the event the Non-Defaulting Party is not able, after commercially reasonable efforts, to obtain the Market Quotation Average Price with respect to any Terminated Transaction, then the Non-Defaulting Party shall calculate its Gains and Losses for such Terminated Transaction in a commercially reasonable manner by calculating the arithmetic mean of at least three (3) Forward Price Assessments for transactions substantially similar to each Terminated Transaction. In the event the Non-Defaulting Party is not able, after commercially reasonable efforts to obtain at least three (3) Forward Price Assessments with respect to any Terminated Transaction, then the Non-Defaulting Party shall calculate its Gains and Losses for such Terminated Transaction in a commercially reasonable manner by reference to information supplied to it by one or more third parties including, without limitation, index prices, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads, or other relevant market data in the relevant markets; provided, however, that the provider of such information shall not be an Affiliate of either Party. Only in the event the Non-Defaulting Party is not able, after using commercially reasonable efforts, to obtain such third party information, then the Non-Defaulting Party may calculate its Gains and Losses for such Terminated Transaction in a commercially reasonable manner using relevant market data it has available to it internally.”

Section 5.3 is amended by (i) deleting the “:” in the second line thereof; (ii) replacing the words “Agreement against” with “Agreement, against” immediately before “(b)”; and (iii) inserting the phrase “any cash then available to the Defaulting Party pursuant to Article Eight,” between the words “Non-Defaulting Party,” and “plus any” in the sixth line thereof.

Section 5.4 is amended by inserting the phrase “but in no event more than fifteen (15) Business Days following the Early Termination Date,” after the phrase “liquidation,” in the second line thereof.

Section 5.6 Option A is amended by (i) inserting the following phrase “with respect to the Specified Energy Transactions,” before the words “and/or (ii)” and (ii) adding the following at the end thereof :

“Notwithstanding anything to the contrary contained in this Master Agreement, or in any other agreement, instrument, or undertaking between the Parties with respect to a Specified Energy Transaction, if an Early Termination Date has been designated pursuant to Section 5.2, then, in addition to the other remedies provided in this Master Agreement, the Non-Defaulting Party may accelerate, liquidate and terminate all, but not less than all, Specified Energy Transactions between the Parties.”

Section 5.7 is amended to capitalize the word “early” in line 6 to read “Early”.

ARTICLE SIX: PAYMENT AND NETTING. Amend Article Six as follows:

Section 6.3 is amended to read as follows:

“6.3 Disputes and Adjustments of Invoices. A Party may adjust any invoice rendered by it under this Agreement to correct any arithmetic or computational error or to include additional charges or claims within twenty-four (24) months after the close of the month in which the obligations being invoiced arose. A receiving Party may, in good faith, dispute the correctness of any invoice or of any adjustment to any invoice previously rendered to it by providing notice to the other Party on or before the later of (i) twelve (12) months of the date of receipt of such invoice or adjusted invoice, or (ii) twenty-four (24) months after the close of the month in which the obligation being invoiced arose. Failure to provide such notice within the time frame set forth in the preceding sentence waives the dispute with respect to such invoice. A Party disputing all or any part of an invoice or an adjustment to an invoice previously rendered to it may pay only the undisputed portion of the invoice when due, provided such Party provides notice to the other Party of the basis for and amount of the disputed portion of the invoice that has not been paid. The disputed portion of the invoice must be paid within two (2) Business Days of resolution of the dispute, along with interest accrued at the Interest Rate from and including the original due date of the invoice to but excluding the date the disputed portion of the invoice is actually paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment but excluding the date repaid or deducted by the Party receiving such overpayment. An invoice can only be adjusted or amended after it was originally rendered within the time frames set forth in this Section 6.3. If an invoice is not rendered within twenty-four (24) months after the close of the month in which the payment obligations arose, the right to payment for that month under this Agreement is waived.”

Section 6.7 is amended to replace the phrase “Section 6.1” with the phrase “Section 6.2”.

[For FTAA: Article 6 is amended by adding a new Section 6.9:]

“6.9 Conflict of Payment Terms. To the extent there is a conflict between the payment terms of this Master Agreement and the FTAA, the FTAA shall prevail.”**ARTICLE SEVEN: LIMITATIONS.** Amend Article Seven as follows:

Section 7.1 is amended to (i) delete the phrase “EXCEPT AS SET FORTH HEREIN” in the first sentence; and (ii) in the fifth sentence (a) replace in its entirety the phrase “UNLESS EXPRESSLY HEREIN PROVIDED” with “NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY”; (b) add the following phrase “SET FORTH IN THIS AGREEMENT” after the words “INDEMNITY PROVISION”; and (c) add the following phrase “; PROVIDED, HOWEVER, THAT NOTHING IN THIS PROVISION SHALL AFFECT THE ENFORCEABILITY OF SECTIONS 5.2 AND 5.3 OF THIS AGREEMENT” after the words “OR OTHERWISE”.

ARTICLE EIGHT: CREDIT AND COLLATERAL REQUIREMENTS. Amend Article Eight as follows:

Section 8.1(a) Option A is amended to add (i) the following phrase “(income statement, balance sheet, statement of cash flows and statement of retained earnings and all accompanying notes) after the words “consolidated financial statements” in the third line; (ii) the phrase “setting forth in each case in comparative form the figures for the previous year” after the words “for such fiscal year,” in the third line; and (iii) the

phrase “and the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures for the previous year certified in accordance with all applicable laws and regulations, including without limitation all applicable Securities and Exchange Commission rules and regulations, provided however, for the purposes of this (i) and (ii), if Party B’s financial statements are publicly available electronically on the Securities and Exchange Commission’s website or Party B’s website, then Party B shall be deemed to have met this requirement” after the words “for such fiscal quarter” in the fifth line.

[SCE comment—The following is applicable if Option A is selected]

Section 8.2(a) Option A is amended to add (i) the following phrase “(income statement, balance sheet, statement of cash flows and statement of retained earnings and all accompanying notes)” after the words “consolidated financial statements” in the third line; (ii) the phrase “setting forth in each case in comparative form the figures for the previous year” after the words “for such fiscal year,” in the third line; and (iii) the phrase “and the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures for the previous year **[if Party A is an SEC reporting company:** certified in accordance with all applicable laws and regulations, including without limitation all applicable Securities and Exchange Commission rules and regulations] **[OR if Party A is not an SEC reporting company:** certified by a Responsible Officer as being fairly stated in all material respects (subject to normal year end audit adjustments)]”, provided however, for the purposes of this (i) and (ii), if Party A’s financial statements are publicly available electronically on the Securities and Exchange Commission’s website or Party A’s website, then Party A shall be deemed to have met this requirement” after the words “for such fiscal quarter” in the fifth line; and (v) at the end thereof the phrase “**[if Party A is not an SEC reporting company:** For purposes of this Section, ‘Responsible Officer’ shall mean the Chief Financial Officer, Treasurer or any Assistant Treasurer of Party A or any employee of Party A designated by any of the foregoing.]”.

[SCE comment—The following is applicable if Option B is selected]

Section 8.2(a) Option B is amended to add (i) the phrase “or Party A’s Guarantor [or other entity specified on the Cover Sheet]” after the words “Party A” in the first line; (ii) the following phrase “(income statement, balance sheet, statement of cash flows and statement of retained earnings and all accompanying notes)” after the words “consolidated financial statements” in the third line; (iii) the phrase “setting forth in each case in comparative form the figures for the previous year” after the words “for such fiscal year,” in the third line; (iv) is amended by replacing the phrase “for the party(s) specified on the Cover Sheet” with the phrase “and the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures for the previous year **[if Party A’s Guarantor [or other entity specified on the Cover Sheet] is an SEC reporting company:** certified in accordance with all applicable laws and regulations, including without limitation all applicable Securities and Exchange Commission rules and regulations] **[OR if Party A’s Guarantor [or other entity specified on the Cover Sheet] is not an SEC reporting company:** certified by a Responsible Officer as being fairly stated in all material respects (subject to normal year end audit adjustments)]”, provided however, for the purposes of this (i) and (ii), if Party A’s Guarantor’s [or other entity specified on the Cover Sheet] financial statements are publicly available electronically on the Securities and Exchange Commission’s website or Party A’s Guarantor’s [or other entity specified on the Cover Sheet] website, then this requirement shall be deemed satisfied” in the fifth line; and (v) at the end thereof the phrase “**[if Party A’s Guarantor [or other entity specified**

on the Cover Sheet] is not an SEC reporting company: For purposes of this Section, 'Responsible Officer' shall mean the Chief Financial Officer, Treasurer or any Assistant Treasurer of Party A's Guarantor or any employee of Party A's Guarantor designated by any of the foregoing.】”.

A new Section 8.4 is added to read as follows:

“8.4 [Uniform/California] Commercial Code Waiver. This Agreement and the Collateral Annex set forth the entirety of the agreement of the Parties regarding credit, collateral and adequate assurances. Except as expressly set forth in the options elected by the Parties in respect of Sections 8.1 and 8.2, in Section 8.3, and in the relevant portions of the Collateral Annex, neither Party:

(a) has or will have any obligation to post margin, provide letters of credit, pay deposits, make any other prepayments or provide any other financial assurances, in any form whatsoever, nor

(b) will have reasonable grounds for insecurity with respect to the creditworthiness of a Party that is complying with the relevant provisions of Section 8 of this Master Agreement and of the relevant provisions of the Collateral Annex;

and all implied rights relating to financial assurances arising from Section [2-609 of the Uniform][2609 of the California] Commercial Code or case law applying similar doctrines, are hereby waived.”

ARTICLE NINE: GOVERNMENTAL CHARGES. Amend Article Nine as follows:

Section 9.2, is amended to add the words “, charges, or fees” after the word “taxes” in the first line thereof.

ARTICLE TEN: MISCELLANEOUS. Amend Article Ten as follows:

Section 10.2(vi) is amended to add the phrase “(for purposes of this Section 10.2(vi), Party B shall be deemed to have no Affiliates)” after the word “Affiliates”.

[Include the below amendments to Section 10.2(x) and Section 10.2(xi) for all CPs able to make reps re eligible commercial entity/eligible contract participant. Delete the amendments to 10.2(x) and (x) for CPs unable to make those reps]

Section 10.2(x) is amended to read as follows:

“(x) it is an ‘eligible commercial entity’ within the meaning of the Commodity Exchange Act, as otherwise amended, updated or modified from time to time;”

Section 10.2(xi) is amended to read as follows:

“(xi) it is an ‘eligible contract participant’ within the meaning of the Commodity Exchange Act, as otherwise amended, updated or modified from time to time; and”

Section 10.2(xii) is amended to read as follows:

“(xii) each Transaction that is not executed or traded on a ‘trading facility’, as defined in the Commodity Exchange Act, as otherwise amended, updated or modified from time to time, is subject to individual negotiation by the Parties.”

Section 10.4 is amended by adding the following sentence at the end thereof:

“Neither Party shall be liable with respect to any Claim to the extent that such Claim resulted from the negligence, willful misconduct, or bad faith of the indemnified Party.”

Section 10.5 is amended as follows:

- (a) add the following phrase to the end of clause (i) immediately after the word “arrangements” the phrase “to any person or entity whose creditworthiness is equal to or higher than that of such Party”; (b) in clause (ii) replace the words “affiliate” and “affiliate’s” with, respectively “Affiliate” and “Affiliate’s”; and (c) in clause (iii) immediately after the words “substantially all of the assets” insert the words “of such Party and”.

Section 10.6 is amended to read as follows:

“10.6 Governing Law; Venue; Dispute Resolution.

- (a) Governing Law and Venue: THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS. EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY DISPUTE ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT. The Parties hereby consent to conduct all dispute resolution, judicial actions or proceedings arising directly, indirectly or otherwise in conjunction with, out of, related to, or arising from this Agreement in Los Angeles County, California.

- (b) Dispute Resolution:

- (i) Mediation. The Parties agree that any and all disputes, claims or controversies arising out of, relating to, concerning or pertaining to this Agreement, or to either Party’s performance or failure of performance under this Agreement, which disputes, claims, or controversies the Parties have been unable to resolve by informal methods after undertaking a good faith effort to do so, shall first be submitted to Judicial Arbitration and Mediation Services, Inc. (‘JAMS’), its successor, or any other mutually agreeable neutral (the ‘Mediator’) for mediation, and if the matter is not resolved through mediation, then it shall be submitted as provided below for final and binding arbitration.

The Parties agree that there will be no interlocutory appellate relief (such as writs) available. Any dispute resolution process pursuant to this Section 10.6(b) shall be commenced within one (1) year of the date of the occurrence of the facts giving rise to the dispute, without regard to the date such facts are discovered; *provided*, if the facts giving rise to the dispute were not reasonably capable of being discovered at the time of their occurrence, then such one (1) year period shall commence on the earliest date that such facts were reasonably capable of being discovered, and in no event more than four (4) years after the occurrence of the facts giving rise to the dispute. If any dispute resolution process pursuant to this Section 10.06(b) with respect to a dispute is not commenced within such one (1) year time period, such dispute shall be waived and forever barred, without regard to any other limitations period set forth by law or statute.

Either Party may initiate the mediation by providing to the other Party a written request for mediation setting forth the subject of the dispute and the relief requested.

The Parties will cooperate with one another in selecting the Mediator from the JAMS' panel of neutrals, or in selecting a mutually acceptable non-JAMS Mediator, and in scheduling the time and place of the mediation.

Such selection and scheduling will be completed within forty-five (45) days after a Party provides a written request for mediation.

Unless otherwise agreed to by the Parties, the mediation will not be scheduled for a date that is greater than one hundred twenty (120) days after a Party provides a written request for mediation.

The Parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs (other than each Party's individual attorneys' fees and costs related to the Party's participation in the mediation, which fees and costs will be borne by such Party).

All offers, promises, conduct and statements, whether oral or written, made in connection with or during the mediation by either of the Parties, their agents, representatives, employees, experts and attorneys, and by the Mediator or any of the Mediator's agents, representatives and employees, will not be subject to discovery and will be confidential, privileged and inadmissible for any purpose, including impeachment, in any arbitration or other proceeding between or involving the Parties, or either of them, *provided*, evidence that is otherwise admissible or discoverable will not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

(ii) Arbitration. Either Party may initiate binding arbitration with respect to the matters first submitted to mediation by making a written demand for binding arbitration before a single, neutral arbitrator (the 'Arbitrator') within sixty (60) days following the unsuccessful conclusion of the mediation provided for in Section 10.06(b)(i). If a written demand for arbitration is not provided by either Party within sixty (60) days following the unsuccessful conclusion of the mediation provided for in Section 10.06(b)(i), the dispute resolution process shall be deemed complete and further resolution of such dispute shall be barred, without regard to any other limitations period set forth by law or statute.

The Parties will cooperate with one another in promptly selecting the Arbitrator and shall further cooperate in scheduling the arbitration to commence no later than 180 days from the date of the initial written demand for binding arbitration.

If, notwithstanding their good faith efforts, the Parties are unable to agree upon a mutually acceptable Arbitrator, the Arbitrator shall be appointed as provided for in California Code of Civil Procedure Section 1281.6.

Unless otherwise agreed to by the Parties, the individual acting as the Mediator shall be disqualified from serving as the Arbitrator in the dispute, although the Arbitrator may be another member of the JAMS panel of

neutrals or such other panel of neutrals from which the Parties have agreed to select the Mediator.

Upon a Party's written demand for binding arbitration, such dispute, claim or controversy submitted to arbitration, including the determination of the scope or applicability of this Agreement to arbitrate, shall be determined by binding arbitration before the Arbitrator, in accordance with the laws of the State of California, without regards to principles of conflicts of laws.

Except as provided for herein, the arbitration shall be conducted by the Arbitrator in accordance with the rules and procedures for arbitration of complex business disputes for the organization with which the Arbitrator is associated.

Absent the existence of such rules and procedures, the arbitration shall be conducted in accordance with the California Arbitration Act, California Code of Civil Procedure Section 1280 et seq and California procedural law (including the Code of Civil Procedure, Civil Code, Evidence Code and Rules of Court, but excluding local rules).

Notwithstanding the rules and procedures that would otherwise apply to the arbitration, and unless the Parties agree to a different arrangement, the place of the arbitration shall be in Los Angeles County, California.

Also, notwithstanding the rules and procedures that would otherwise apply to the arbitration, and unless the Parties agree to a different arrangement, discovery will be limited as follows:

- (1) Before discovery commences, the Parties shall exchange an initial disclosure of all documents and percipient witnesses which they intend to rely upon or use at any arbitration proceeding (except for documents and witnesses to be used solely for impeachment);
- (2) The initial disclosure will occur within thirty (30) days after the initial conference with the Arbitrator or at such time as the Arbitrator may order;
- (3) Discovery may commence at any time after the Parties' initial disclosure;
- (4) The Parties will not be permitted to propound any interrogatories or requests for admissions;
- (5) Discovery will be limited to twenty-five (25) document requests (with no subparts), three (3) lay witness depositions, and three (3) expert witness depositions (unless the Arbitrator holds otherwise following a showing by the Party seeking the additional documents or depositions that the documents or depositions are critical for a fair resolution of the Dispute or that a Party has improperly withheld documents);
- (6) Each Party is allowed a maximum of three (3) expert witnesses, excluding rebuttal experts;
- (7) Within sixty (60) days after the initial disclosure, or at such other time as the Arbitrator may order, the Parties shall exchange a list of all experts upon which they intend to rely at the arbitration proceeding;

- (8) Within thirty (30) days after the initial expert disclosure, the Parties may designate a maximum of two (2) rebuttal experts;
- (9) Unless the Parties agree otherwise, all direct testimony will be in form of affidavits or declarations under penalty of perjury; and
- (10) Each Party shall make available for cross examination at the arbitration hearing its witnesses whose direct testimony has been so submitted.

Subject to Section 7.1, the Arbitrator will have the authority to grant any form of equitable or legal relief a Party might recover in a court action. The Parties acknowledge and agree that irreparable damage would occur if certain provisions of this Agreement are not performed in accordance with the terms of the Agreement, that money damages would not be a sufficient remedy for any breach of these provisions of this Agreement, and that the Parties shall be entitled, without the requirement of posting a bond or other security, to specific performance and injunctive or other equitable relief as a remedy for a breach of Section 10.11 of this Agreement.

Judgment on the award may be entered in any court having jurisdiction.

The Arbitrator shall, in any award, allocate all of the costs of the binding arbitration (other than each Party's individual attorneys' fees and costs related to the Party's participation in the arbitration, which fees and costs shall be borne by such Party), including the fees of the Arbitrator, against the Party who did not prevail.

Until such award is made, however, the Parties shall share equally in paying the costs of the arbitration.

At the conclusion of the arbitration hearing, the Arbitrator shall prepare in writing and provide to each Party a decision setting forth factual findings, legal analysis, and the reasons on which the Arbitrator's decision is based. The Arbitrator shall also have the authority to resolve claims or issues in advance of the arbitration hearing that would be appropriate for a California superior court judge to resolve in advance of trial. The Arbitrator shall not have the power to commit errors of law or fact, or to commit any abuse of discretion, that would constitute reversible error had the decision been rendered by a California superior court. The Arbitrator's decision may be vacated or corrected on appeal to a California court of competent jurisdiction for such error. Unless otherwise agreed to by the Parties, all proceedings before the Arbitrator shall be reported and transcribed by a certified court reporter, with each Party bearing one-half of the court reporter's fees."

Section 10.8 is amended to replace in the penultimate sentence thereof the phrase "twelve (12) months" with the phrase "two (2) years".

Section 10.10 is amended to read as follows:

"10.10 Bankruptcy Issues. The Parties intend that (i) all Transactions constitute a 'forward contract' within the meaning of the United States Bankruptcy Code (the 'Bankruptcy Code') or a 'swap agreement' within the meaning of the Bankruptcy Code; (ii) all payments made or to be made by one Party to the other Party pursuant to this Agreement constitute 'settlement payments' within the meaning of the Bankruptcy Code; (iii) all transfers of Performance Assurance by one Party to the other Party under this Agreement constitute 'margin payments' within the meaning of the Bankruptcy Code; (iv) this Agreement constitutes a

‘master netting agreement’ within the meaning of the Bankruptcy Code; and (v) each of Party A and Party B are “forward contract merchants” within the meaning of the Bankruptcy Code.

Each Party further agrees that, for purposes of this Agreement, the other Party is not a ‘utility’ as such term is used in 11 U.S.C. Section 366, each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. Section 366 in any bankruptcy proceeding wherein such Party is a debtor. In any such proceeding, each Party further waives the right to assert that the other Party is a provider of last resort to the extent such term relates to 11 U.S.C. Section 366 or another provision of 11 U.S.C. Section 101-1532.”

Section 10.11 is amended to read as follows:

“10.11 Confidentiality. If the Parties have elected on the Cover Sheet to make this Section 10.11 applicable to this Master Agreement, neither Party shall disclose the terms or conditions of this Agreement to a third party (other than the Party’s or the Party’s Affiliates’ officers, directors, employees, lenders, counsel, accountants, advisors, or rating agencies who have a need to know such information and have agreed to keep such terms strictly confidential and to take reasonable precautions to protect against disclosure of such terms) except (i) in order to comply with any applicable law, order, regulation, ruling, summons, subpoena, exchange rule, or accounting disclosure rule or standard, or to make any showing required by any applicable governmental authority; (ii) to the extent necessary for the enforcement of this Agreement or to implement any Transaction; (iii) as may be obtained from a non-confidential source that disclosed such information in a manner that did not violate its obligations to the non-disclosing Party or its Guarantor in making such disclosure; (iv) to the extent such disclosure to a third party is for the sole purpose of calculating a published index, so long as such third party (1) has agreed prior to the disclosure to protect the specific information disclosed from public disclosure and (2) is a party engaged in the business of collecting such information for the purpose of establishing, creating, or formulating a published index; (v) to the extent such information is or becomes generally available to the public prior to such disclosure by a Party; (vi) when required to be released in connection with any regulatory proceeding (provided that the releasing Party makes reasonable efforts to obtain confidential treatment of the information being released); or (vii) with respect to Party B, as may be furnished to its duly authorized regulatory and governmental agencies or entities, including without limitation the California Public Utilities Commission (the “CPUC”) and all divisions thereof, and to Party B’s Procurement Review Group (the “PRG”), a group of participants including members of the CPUC and other governmental agencies and consumer groups established by the CPUC in D.02-08-071 and D.03-06-071; provided, Party B shall have no liability to Party A in the event of any unauthorized use or disclosure by such entities. The existence of this Agreement is not subject to this confidentiality obligation; provided that neither Party shall make any public announcement relating to this Agreement unless required pursuant to subsection (i) or (vi) of the foregoing sentence of this Section 10.11. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation. With respect to information provided in connection with a Transaction, this obligation shall survive for a period of three (3) years following the expiration or termination of such Transaction. With respect to information provided under this Agreement, this obligation shall survive for a period of three (3) years following the expiration or termination of this Agreement. For the purposes of this Section

10.11, “Affiliate” for Party A shall mean _____ and “Affiliate” for Party B shall mean Edison International.”

New Sections 10.12, 10.13, 10.14, 10.15, 10.16, and 10.17 shall be added as follows:

“10.12 No Agency. Except as otherwise provided explicitly herein, in performing their respective obligations under this Agreement, neither Party is acting, or is authorized to act, as the other Party’s agent.”

“10.13 Mobile Sierra Doctrine.

- (a) Absent the agreement of all Parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Agreement, whether proposed by a Party (to the extent that any waiver in subsection (b) below is unenforceable or ineffective as to such Party), a non-party or FERC acting *sua sponte*, shall be the ‘public interest’ standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956), *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), and clarified by *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish*, 554 U.S. 527 (2008), and *NRG Power Marketing LLC v. Maine Public Utility Commission*, 558 U.S. 527 (2010) (the ‘Mobile Sierra’ doctrine).
- (b) Notwithstanding any provision of Agreement, and absent the prior written agreement of the Parties, each Party, to the fullest extent permitted by applicable laws, for itself and its respective successors and assigns, hereby also expressly and irrevocably waives any rights it can or may have, now or in the future, whether under Sections 205, 206, or 306 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation, supporting a third party seeking to obtain or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any Section of this Agreement specifying any rate or other material economic terms and conditions agreed to by the Parties.”

“10.14 Multiple Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile transmission, Portable Document Format (i.e., PDF) or by other electronic means constitutes effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes.”

“10.15 Independent Contractors. The Parties are independent contractors. Nothing contained herein shall be deemed to create an association, joint venture, or partnership relationship between the Parties or to impose any partnership obligations or liability on either Party in any way.”

“10.16 Severability. If any term, section, provision or other part of this Agreement, or the application of any term, section, provision or other part of this Agreement, is held to be invalid, illegal or void by a court or regulatory agency of proper jurisdiction, all other terms, sections, provisions or other parts of this Agreement shall not be affected thereby but shall remain in force and effect unless a court or regulatory agency holds that the provisions are not separable from all other provisions of this Agreement.”

“10.17 Rules of Construction.

- (a) The word “or” when used in this Agreement includes the meaning “and/or” unless the context unambiguously dictates otherwise.
- (b) Where days are not specifically designated as Business Days, they will be considered as calendar days.
- (c) All references to time shall be in PPT unless stated otherwise.”

SCHEDULE P: PRODUCTS AND DEFINITIONS. Amend Schedule P as follows:

The following definitions are added:

“ ‘CAISO Energy’ means with respect to a Transaction, a Product under which the Seller shall sell and the Buyer shall purchase a quantity of energy equal to the hourly quantity without Ancillary Services (as defined in the Tariff) that is or will be scheduled as a schedule coordinator to schedule coordinator transaction pursuant to the applicable tariff and protocol provisions of the CAISO (as amended from time to time, the ‘Tariff’) for which the only excuse for failure to deliver or receive is an Uncontrollable Force (as defined in the Tariff).”

The following products are added:

“Other Products and Service Levels.

If the Parties agree to a service level or product defined by a different agreement, set of rules, tariff, or protocol (herein, the ‘agreement’) (i.e., the WSPP Agreement) for a particular Transaction, then, unless the Parties expressly state and agree that all the terms and conditions of such other agreement will apply, such reference to a service level or product defined by such other agreement means that the service level or product for that Transaction is subject to the applicable regional independent system operator and/or utility reliability requirements and guidelines as well as the permitted excuses for performance, Force Majeure, Uncontrollable Forces, or other such excuses applicable to performance under such other agreement, to the extent inconsistent with the terms of this Agreement, provided, however, that all other terms and conditions of this Agreement shall and do remain applicable including, without limitation, Section 2.2; and provided, further that with respect to any Transaction for a product or service level defined by such other agreement, the methodology for calculating the payments for failure to deliver or receive shall be in accordance with Sections 4.1 and 4.2 of the Master Agreement; provided, further that the ‘Accelerated Payment of Damages’ addressed in Article Four and agreed to in the Cover Sheet of the Master Agreement shall continue to apply.”

“Into _____ (the ‘Receiving Transmission Provider’), Seller’s Daily Choice” is deleted in its entirety.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties have caused this Master Agreement to be duly executed as of the date first above written.

Party A: _____

Party B: SOUTHERN CALIFORNIA EDISON COMPANY

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

DISCLAIMER: This Master Power Purchase and Sale Agreement was prepared by a committee of representatives of Edison Electric Institute (“EEI”) and National Energy Marketers Association (“NEM”) member companies to facilitate orderly trading in and development of wholesale power markets. Neither EEI nor NEM nor any member company nor any of their agents, representatives or attorneys shall be responsible for its use, or any damages resulting there from. By providing this Agreement EEI and NEM do not offer legal advice and all users are urged to consult their own legal counsel to ensure that their commercial objectives will be achieved and their legal interests are adequately protected.

SCHEDULE 1 – Form of Letter of Credit

IRREVOCABLE NONTRANSFERABLE STANDBY LETTER OF CREDIT

Bank Reference Number: _____

Issuance Date:

Issuing Bank:
[insert bank name and address]

Applicant:
[insert applicant name and address]

Beneficiary:
[insert beneficiary name and address]

Available Amount: [insert amount and spell out]

Expiration Date: [insert date]

Ladies and Gentlemen:

_____ (the “Bank”) hereby establishes this Irrevocable Nontransferable Standby Letter of Credit (“Letter of Credit”) in favor of Southern California Edison Company, a California corporation (the “Beneficiary”), for the account of _____, a _____ corporation, also known as ID# _____ (the “Applicant”), for the amount stated above (the “Available Amount”), effective immediately.

This Letter of Credit shall be of no further force or effect at 5:00 p.m., California time on the expiration date stated above or, if such day is not a Business Day (as hereinafter defined), on the next Business Day (as may be extended pursuant to the terms of this Letter of Credit) (the “Expiration Date”).

For the purpose hereof, “Business Day” shall mean any day other than:

1. A Saturday or a Sunday,
2. A day on which banking institutions in the city of Los Angeles, California, are required or authorized by Law to remain closed, or
3. A day on which the payment system of the Federal Reserve System is not operational.

It is a condition of this Letter of Credit that the Expiration Date shall be automatically extended without amendment for one (1) year from the Expiration Date hereof or any future Expiration Date unless at least sixty (60) days prior to such Expiration Date, we send notice to you by certified mail or hand delivered courier, at the address stated below, that we elect not to extend this Letter of Credit for any such additional period.

Subject to the terms and conditions herein, funds under this Letter of Credit are available to Beneficiary by complying presentation on or before 5:00 p.m. California time, on or before the Expiration Date of the following:

1. A copy of this Letter of Credit and all amendments;
2. A copy of the Drawing Certificate in the form of Attachment “A” attached hereto and which forms an integral part hereof, duly completed and bearing the signature of an authorized representative of the Beneficiary signing as such; and
3. A copy of the Sight Draft in the form of Attachment “B” attached hereto and which forms an integral part hereof, duly completed and bearing the signature of an authorized representative of the Beneficiary.

Drawings may also be presented by telecopy (“Fax”) to fax number [insert number] under telephone pre-advice to [insert number] or alternatively to [insert number]; provided that such Fax presentation is received on or before the Expiration Date on this instrument in accordance with the terms and conditions of this Letter of Credit. It being understood that any such fax presentation shall be considered the sole operative instrument of drawing. In the event of presentation by fax, the original documents should not also be presented.

Partial drawing of funds shall be permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance; provided, the Available Amount shall be reduced by the amount of each such drawing.

This Letter of Credit is not transferable or assignable. Any purported transfer or assignment shall be void and of no force or effect.

All correspondence and any drawings (other than those made by facsimile) hereunder are to be directed to [Bank address/contact].

All notices to Beneficiary shall be in writing and are required to be sent by certified letter, overnight courier, or delivered in person to: [insert Beneficiary name and address]. Only notices to Beneficiary meeting the requirements of this paragraph shall be considered valid. Any notice to Beneficiary which is not in accordance with this paragraph shall be void and of no force or effect.

Banking charges shall be the sole responsibility of the Applicant.

This Letter of Credit sets forth in full our obligations and such obligations shall not in any way be modified, amended, amplified or limited by reference to any documents, instruments or agreements referred to herein, except only the attachment referred to herein; and any such reference shall not be deemed to incorporate by reference any document, instrument or agreement except for such attachment. Except in the case of an increase in the Available Amount or extension of the Expiration Date, this Letter of Credit may not be amended or modified without the Beneficiary’s prior written consent.

The Bank engages with the Beneficiary that Beneficiary’s drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to the Bank on or before the Expiration Date.

Except so far as otherwise stated, this Letter of Credit is subject to the International Standby Practices ISP98 (also known as ICC Publication No. 590), or revision currently in effect (the “ISP”). As to matters not covered by the ISP, the laws of the State of California, without regard to the principles of conflicts of laws thereunder, shall govern all matters with respect to this Letter of Credit.

AUTHORIZED SIGNATURE for Bank

By

Name: [print name]_____

Title: [print title]_____

ATTACHMENT A
Drawing Certificate

TO [ISSUING BANK NAME & ADDRESS]

IRREVOCABLE NONTRANSFERABLE STANDBY LETTER OF CREDIT
REFERENCE NUMBER: _____

DATE: _____

[insert Beneficiary name] (the “Beneficiary”), demands *[Issuing Bank Name]* (the “Bank”) payment to the order of the Beneficiary the amount of U.S. \$ _____ (_____ U.S. Dollars), drawn under the Letter of Credit referenced above (the “Letter of Credit”), for the following reason(s) [check applicable provision]:

[] A. An Event of Default (as defined in the Edison Electric Institute Master Power Purchase & Sale Agreement Version 2.1 (modified on 4/25/00) between *[insert Counterparty name]* or its successor (the “Counterparty”) and Beneficiary, dated as of *[Date of Execution]*, as may be amended from time to time, (the “EEI Agreement”), with respect to the Counterparty has occurred and is continuing.

[] B. The Letter of Credit will expire in fewer than twenty (20) Business Days (as defined in the EEI Agreement) from the date hereof, and the Counterparty or its successor has not provided Beneficiary alternative Performance Assurance (as defined in the EEI Agreement) acceptable to Beneficiary.

Unless otherwise provided herein, capitalized terms which are used and not defined herein shall have the meaning given each such term in the Letter of Credit.

Authorized Signature for Beneficiary:

[insert Beneficiary name]

By:

Name: [print name]

Title: [print title]

ATTACHMENT B
SIGHT DRAFT

[Insert Date]

TO:
[ISSUING BANK NAME & ADDRESS]

PAY AT SIGHT TO THE ORDER OF [INSERT BENEFICIARY NAME] (THE “BENEFICIARY”) THE
AMOUNT OF USD [INSERT AMOUNT] DRAWN UNDER [ISSUING BANK NAME] IRREVOCABLE
NONTRANSFERABLE STANDY LETTER OF CREDIT NUMBER [INSERT NUMBER] ISSUED ON
[INSERT DATE].

FUNDS PAID PURSUANT TO THE PROVISIONS OF THE LETTER OF CREDIT SHALL BE WIRE
TRANSFERRED TO THE BENEFICIARY IN ACCORDANCE WITH THE FOLLOWING
INSTRUCTIONS:

[INSERT WIRING INSTRUCTION]

AUTHORIZED SIGNATURE
[INSERT BENEFICIARY NAME]

NAME: [PRINT NAME]

TITLE: [PRINT TITLE]

PUBLIC APPENDIX I.3

EEI Master Power Purchase and Sale Agreement

Master Power Purchase & Sale Agreement



Version 2.1 (modified 4/25/00)
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MASTER POWER PURCHASE AND SALES AGREEMENT

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MASTER POWER PURCHASE AND SALE AGREEMENT

COVER SHEET

This *Master Power Purchase and Sale Agreement* ("Master Agreement") is made as of the following date: _____ ("Effective Date"). The *Master Agreement*, together with the exhibits, schedules and any written supplements hereto, the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any confirmations accepted in accordance with Section 2.3 hereto) shall be referred to as the "Agreement." The Parties to this *Master Agreement* are the following:

Name ("_____ " or "Party A")

All Notices:

Street: _____

City: _____ Zip: _____

Attn: Contract Administration

Phone: _____

Facsimile: _____

Duns: _____

Federal Tax ID Number: _____

Invoices:

Attn: _____

Phone: _____

Facsimile: _____

Scheduling:

Attn: _____

Phone: _____

Facsimile: _____

Payments:

Attn: _____

Phone: _____

Facsimile: _____

Wire Transfer:

BNK: _____

ABA: _____

ACCT: _____

Credit and Collections:

Attn: _____

Phone: _____

Facsimile: _____

With additional Notices of an Event of Default or Potential Event of Default to:

Attn: _____

Phone: _____

Facsimile: _____

Name ("Counterparty" or "Party B")

All Notices:

Street: _____

City: _____ Zip: _____

Attn: Contract Administration

Phone: _____

Facsimile: _____

Duns: _____

Federal Tax ID Number: _____

Invoices:

Attn: _____

Phone: _____

Facsimile: _____

Scheduling:

Attn: _____

Phone: _____

Facsimile: _____

Payments:

Attn: _____

Phone: _____

Facsimile: _____

Wire Transfer:

BNK: _____

ABA: _____

ACCT: _____

Credit and Collections:

Attn: _____

Phone: _____

Facsimile: _____

With additional Notices of an Event of Default or Potential Event of Default to:

Attn: _____

Phone: _____

Facsimile: _____

The Parties hereby agree that the General Terms and Conditions are incorporated herein, and to the following provisions as provided for in the General Terms and Conditions:

Party A Tariff Tariff _____ Dated _____ Docket Number _____

Party B Tariff Tariff _____ Dated _____ Docket Number _____

Article Two

Transaction Terms and Conditions ☐ Optional provision in Section 2.4. If not checked, inapplicable.

Article Four

Remedies for Failure to Deliver or Receive ☐ Accelerated Payment of Damages. If not checked, inapplicable.

Article Five

Events of Default; Remedies ☐ Cross Default for Party A:
☐ Party A: _____ Cross Default Amount \$ _____
☐ Other Entity: _____ Cross Default Amount \$ _____
☐ Cross Default for Party B:
☐ Party B: _____ Cross Default Amount \$ _____
☐ Other Entity: _____ Cross Default Amount \$ _____

5.6 Closeout Setoff

- ☐ Option A (Applicable if no other selection is made.)
☐ Option B - Affiliates shall have the meaning set forth in the Agreement unless otherwise specified as follows: _____
☐ Option C (No Setoff)

Article 8

Credit and Collateral Requirements

8.1 Party A Credit Protection:

(a) Financial Information:

- ☐ Option A
☐ Option B Specify: _____
☐ Option C Specify: _____

(b) Credit Assurances:

- ☐ Not Applicable
☐ Applicable

(c) Collateral Threshold:

- ☐ Not Applicable
☐ Applicable

If applicable, complete the following:

Party B Collateral Threshold: \$ _____; provided, however, that Party B's Collateral Threshold shall be zero if an Event of Default or Potential Event of Default with respect to Party B has occurred and is continuing.

Party B Independent Amount: \$ _____

Party B Rounding Amount: \$ _____

(d) Downgrade Event:

- ☐ Not Applicable
☐ Applicable

If applicable, complete the following:

- ☐ It shall be a Downgrade Event for Party B if Party B's Credit Rating falls below _____ from S&P or _____ from Moody's or if Party B is not rated by either S&P or Moody's

- ☐ Other:
Specify: _____

(e) Guarantor for Party B: _____

Guarantee Amount: _____

8.2 Party B Credit Protection:

(a) Financial Information:

- ☐ Option A
☐ Option B Specify: _____
☐ Option C Specify: _____

(b) Credit Assurances:

- ☐ Not Applicable
☐ Applicable

(c) Collateral Threshold:

- ☐ Not Applicable
☐ Applicable

If applicable, complete the following:

Party A Collateral Threshold: \$ _____; provided, however, that Party A's Collateral Threshold shall be zero if an Event of Default or Potential Event of Default with respect to Party A has occurred and is continuing.

Party A Independent Amount: \$ _____

Party A Rounding Amount: \$ _____

(d) Downgrade Event:

- ☐ Not Applicable
- ☐ Applicable

If applicable, complete the following:

- ☐ It shall be a Downgrade Event for Party A if Party A's Credit Rating falls below _____ from S&P or _____ from Moody's or if Party A is not rated by either S&P or Moody's
- ☐ Other:
Specify: _____

(e) Guarantor for Party A: _____

Guarantee Amount: _____

Article 10

Confidentiality

☐ Confidentiality Applicable If not checked, inapplicable.

Schedule M

- ☐ Party A is a Governmental Entity or Public Power System
- ☐ Party B is a Governmental Entity or Public Power System
- ☐ Add Section 3.6. If not checked, inapplicable
- ☐ Add Section 8.6. If not checked, inapplicable

Other Changes

Specify, if any: _____

IN WITNESS WHEREOF, the Parties have caused this Master Agreement to be duly executed as of the date first above written.

Party A Name

By: _____

Name: _____

Title: _____

Party B Name

By: _____

Name: _____

Title: _____

DISCLAIMER: This Master Power Purchase and Sale Agreement was prepared by a committee of representatives of Edison Electric Institute (“EEI”) and National Energy Marketers Association (“NEM”) member companies to facilitate orderly trading in and development of wholesale power markets. Neither EEI nor NEM nor any member company nor any of their agents, representatives or attorneys shall be responsible for its use, or any damages resulting therefrom. By providing this Agreement EEI and NEM do not offer legal advice and all users are urged to consult their own legal counsel to ensure that their commercial objectives will be achieved and their legal interests are adequately protected.

GENERAL TERMS AND CONDITIONS

ARTICLE ONE: GENERAL DEFINITIONS

1.1 “Affiliate” means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

1.2 “Agreement” has the meaning set forth in the Cover Sheet.

1.3 “Bankrupt” means with respect to any entity, such entity (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

1.4 “Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party’s principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

1.5 “Buyer” means the Party to a Transaction that is obligated to purchase and receive, or cause to be received, the Product, as specified in the Transaction.

1.6 “Call Option” means an Option entitling, but not obligating, the Option Buyer to purchase and receive the Product from the Option Seller at a price equal to the Strike Price for the Delivery Period for which the Option may be exercised, all as specified in the Transaction. Upon proper exercise of the Option by the Option Buyer, the Option Seller will be obligated to sell and deliver the Product for the Delivery Period for which the Option has been exercised.

1.7 “Claiming Party” has the meaning set forth in Section 3.3.

1.8 “Claims” means all third party claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.

1.9 “Confirmation” has the meaning set forth in Section 2.3.

1.10 “Contract Price” means the price in \$U.S. (unless otherwise provided for) to be paid by Buyer to Seller for the purchase of the Product, as specified in the Transaction.

1.11 “Costs” means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace a Terminated Transaction; and all reasonable attorneys’ fees and expenses incurred by the Non-Defaulting Party in connection with the termination of a Transaction.

1.12 “Credit Rating” means, with respect to any entity, the rating then assigned to such entity’s unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issues rating by S&P, Moody’s or any other rating agency agreed by the Parties as set forth in the Cover Sheet.

1.13 “Cross Default Amount” means the cross default amount, if any, set forth in the Cover Sheet for a Party.

1.14 “Defaulting Party” has the meaning set forth in Section 5.1.

1.15 “Delivery Period” means the period of delivery for a Transaction, as specified in the Transaction.

1.16 “Delivery Point” means the point at which the Product will be delivered and received, as specified in the Transaction.

1.17 “Downgrade Event” has the meaning set forth on the Cover Sheet.

1.18 “Early Termination Date” has the meaning set forth in Section 5.2.

1.19 “Effective Date” has the meaning set forth on the Cover Sheet.

1.20 “Equitable Defenses” means any bankruptcy, insolvency, reorganization and other laws affecting creditors’ rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending.

1.21 “Event of Default” has the meaning set forth in Section 5.1.

1.22 “FERC” means the Federal Energy Regulatory Commission or any successor government agency.

1.23 “Force Majeure” means an event or circumstance which prevents one Party from performing its obligations under one or more Transactions, which event or circumstance was not anticipated as of the date the Transaction was agreed to, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure shall not be based on (i) the loss of Buyer’s markets; (ii) Buyer’s inability economically

to use or resell the Product purchased hereunder; (iii) the loss or failure of Seller's supply; or (iv) Seller's ability to sell the Product at a price greater than the Contract Price. Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Product to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in the first sentence hereof has occurred. The applicability of Force Majeure to the Transaction is governed by the terms of the Products and Related Definitions contained in Schedule P.

1.24 "Gains" means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of a Terminated Transaction, determined in a commercially reasonable manner.

1.25 "Guarantor" means, with respect to a Party, the guarantor, if any, specified for such Party on the Cover Sheet.

1.26 "Interest Rate" means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in *The Wall Street Journal* under "Money Rates" on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%) and (b) the maximum rate permitted by applicable law.

1.27 "Letter(s) of Credit" means one or more irrevocable, transferable standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a credit rating of at least A- from S&P or A3 from Moody's, in a form acceptable to the Party in whose favor the letter of credit is issued. Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.

1.28 "Losses" means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of a Terminated Transaction, determined in a commercially reasonable manner.

1.29 "Master Agreement" has the meaning set forth on the Cover Sheet.

1.30 "Moody's" means Moody's Investor Services, Inc. or its successor.

1.31 "NERC Business Day" means any day except a Saturday, Sunday or a holiday as defined by the North American Electric Reliability Council or any successor organization thereto. A NERC Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party's principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

1.32 “Non-Defaulting Party” has the meaning set forth in Section 5.2.

1.33 “Offsetting Transactions” mean any two or more outstanding Transactions, having the same or overlapping Delivery Period(s), Delivery Point and payment date, where under one or more of such Transactions, one Party is the Seller, and under the other such Transaction(s), the same Party is the Buyer.

1.34 “Option” means the right but not the obligation to purchase or sell a Product as specified in a Transaction.

1.35 “Option Buyer” means the Party specified in a Transaction as the purchaser of an option, as defined in Schedule P.

1.36 “Option Seller” means the Party specified in a Transaction as the seller of an option, as defined in Schedule P.

1.37 “Party A Collateral Threshold” means the collateral threshold, if any, set forth in the Cover Sheet for Party A.

1.38 “Party B Collateral Threshold” means the collateral threshold, if any, set forth in the Cover Sheet for Party B.

1.39 “Party A Independent Amount” means the amount, if any, set forth in the Cover Sheet for Party A.

1.40 “Party B Independent Amount” means the amount, if any, set forth in the Cover Sheet for Party B.

1.41 “Party A Rounding Amount” means the amount, if any, set forth in the Cover Sheet for Party A.

1.42 “Party B Rounding Amount” means the amount, if any, set forth in the Cover Sheet for Party B.

1.43 “Party A Tariff” means the tariff, if any, specified in the Cover Sheet for Party A.

1.44 “Party B Tariff” means the tariff, if any, specified in the Cover Sheet for Party B.

1.45 “Performance Assurance” means collateral in the form of either cash, Letter(s) of Credit, or other security acceptable to the Requesting Party.

1.46 “Potential Event of Default” means an event which, with notice or passage of time or both, would constitute an Event of Default.

1.47 “Product” means electric capacity, energy or other product(s) related thereto as specified in a Transaction by reference to a Product listed in Schedule P hereto or as otherwise specified by the Parties in the Transaction.

1.48 “Put Option” means an Option entitling, but not obligating, the Option Buyer to sell and deliver the Product to the Option Seller at a price equal to the Strike Price for the Delivery Period for which the option may be exercised, all as specified in a Transaction. Upon proper exercise of the Option by the Option Buyer, the Option Seller will be obligated to purchase and receive the Product.

1.49 “Quantity” means that quantity of the Product that Seller agrees to make available or sell and deliver, or cause to be delivered, to Buyer, and that Buyer agrees to purchase and receive, or cause to be received, from Seller as specified in the Transaction.

1.50 “Recording” has the meaning set forth in Section 2.4.

1.51 “Replacement Price” means the price at which Buyer, acting in a commercially reasonable manner, purchases at the Delivery Point a replacement for any Product specified in a Transaction but not delivered by Seller, plus (i) costs reasonably incurred by Buyer in purchasing such substitute Product and (ii) additional transmission charges, if any, reasonably incurred by Buyer to the Delivery Point, or at Buyer’s option, the market price at the Delivery Point for such Product not delivered as determined by Buyer in a commercially reasonable manner; provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Buyer be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Seller’s liability. For the purposes of this definition, Buyer shall be considered to have purchased replacement Product to the extent Buyer shall have entered into one or more arrangements in a commercially reasonable manner whereby Buyer repurchases its obligation to sell and deliver the Product to another party at the Delivery Point.

1.52 “S&P” means the Standard & Poor’s Rating Group (a division of McGraw-Hill, Inc.) or its successor.

1.53 “Sales Price” means the price at which Seller, acting in a commercially reasonable manner, resells at the Delivery Point any Product not received by Buyer, deducting from such proceeds any (i) costs reasonably incurred by Seller in reselling such Product and (ii) additional transmission charges, if any, reasonably incurred by Seller in delivering such Product to the third party purchasers, or at Seller’s option, the market price at the Delivery Point for such Product not received as determined by Seller in a commercially reasonable manner; provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Seller be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Buyer’s liability. For purposes of this definition, Seller shall be considered to have resold such Product to the extent Seller shall have entered into one or more arrangements in a commercially reasonable manner whereby Seller repurchases its obligation to purchase and receive the Product from another party at the Delivery Point.

1.54 “Schedule” or “Scheduling” means the actions of Seller, Buyer and/or their designated representatives, including each Party’s Transmission Providers, if applicable, of notifying, requesting and confirming to each other the quantity and type of Product to be delivered on any given day or days during the Delivery Period at a specified Delivery Point.

1.55 “Seller” means the Party to a Transaction that is obligated to sell and deliver, or cause to be delivered, the Product, as specified in the Transaction.

1.56 “Settlement Amount” means, with respect to a Transaction and the Non-Defaulting Party, the Losses or Gains, and Costs, expressed in U.S. Dollars, which such party incurs as a result of the liquidation of a Terminated Transaction pursuant to Section 5.2.

1.57 “Strike Price” means the price to be paid for the purchase of the Product pursuant to an Option.

1.58 “Terminated Transaction” has the meaning set forth in Section 5.2.

1.59 “Termination Payment” has the meaning set forth in Section 5.3.

1.60 “Transaction” means a particular transaction agreed to by the Parties relating to the sale and purchase of a Product pursuant to this Master Agreement.

1.61 “Transmission Provider” means any entity or entities transmitting or transporting the Product on behalf of Seller or Buyer to or from the Delivery Point in a particular Transaction.

ARTICLE TWO: TRANSACTION TERMS AND CONDITIONS

2.1 Transactions. A Transaction shall be entered into upon agreement of the Parties orally or, if expressly required by either Party with respect to a particular Transaction, in writing, including an electronic means of communication. Each Party agrees not to contest, or assert any defense to, the validity or enforceability of the Transaction entered into in accordance with this Master Agreement (i) based on any law requiring agreements to be in writing or to be signed by the parties, or (ii) based on any lack of authority of the Party or any lack of authority of any employee of the Party to enter into a Transaction.

2.2 Governing Terms. Unless otherwise specifically agreed, each Transaction between the Parties shall be governed by this Master Agreement. This Master Agreement (including all exhibits, schedules and any written supplements hereto), , the Party A Tariff, if any, and the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any Confirmations accepted in accordance with Section 2.3) shall form a single integrated agreement between the Parties. Any inconsistency between any terms of this Master Agreement and any terms of the Transaction shall be resolved in favor of the terms of such Transaction.

2.3 Confirmation. Seller may confirm a Transaction by forwarding to Buyer by facsimile within three (3) Business Days after the Transaction is entered into a confirmation (“Confirmation”) substantially in the form of Exhibit A. If Buyer objects to any term(s) of such Confirmation, Buyer shall notify Seller in writing of such objections within two (2) Business Days of Buyer’s receipt thereof, failing which Buyer shall be deemed to have accepted the terms as sent. If Seller fails to send a Confirmation within three (3) Business Days after the Transaction is entered into, a Confirmation substantially in the form of Exhibit A, may be forwarded by Buyer to Seller. If Seller objects to any term(s) of such Confirmation, Seller shall notify Buyer of such objections within two (2) Business Days of Seller’s receipt thereof, failing

which Seller shall be deemed to have accepted the terms as sent. If Seller and Buyer each send a Confirmation and neither Party objects to the other Party's Confirmation within two (2) Business Days of receipt, Seller's Confirmation shall be deemed to be accepted and shall be the controlling Confirmation, unless (i) Seller's Confirmation was sent more than three (3) Business Days after the Transaction was entered into and (ii) Buyer's Confirmation was sent prior to Seller's Confirmation, in which case Buyer's Confirmation shall be deemed to be accepted and shall be the controlling Confirmation. Failure by either Party to send or either Party to return an executed Confirmation or any objection by either Party shall not invalidate the Transaction agreed to by the Parties.

2.4 Additional Confirmation Terms. If the Parties have elected on the Cover Sheet to make this Section 2.4 applicable to this Master Agreement, when a Confirmation contains provisions, other than those provisions relating to the commercial terms of the Transaction (e.g., price or special transmission conditions), which modify or supplement the general terms and conditions of this Master Agreement (e.g., arbitration provisions or additional representations and warranties), such provisions shall not be deemed to be accepted pursuant to Section 2.3 unless agreed to either orally or in writing by the Parties; provided that the foregoing shall not invalidate any Transaction agreed to by the Parties.

2.5 Recording. Unless a Party expressly objects to a Recording (defined below) at the beginning of a telephone conversation, each Party consents to the creation of a tape or electronic recording ("Recording") of all telephone conversations between the Parties to this Master Agreement, and that any such Recordings will be retained in confidence, secured from improper access, and may be submitted in evidence in any proceeding or action relating to this Agreement. Each Party waives any further notice of such monitoring or recording, and agrees to notify its officers and employees of such monitoring or recording and to obtain any necessary consent of such officers and employees. The Recording, and the terms and conditions described therein, if admissible, shall be the controlling evidence for the Parties' agreement with respect to a particular Transaction in the event a Confirmation is not fully executed (or deemed accepted) by both Parties. Upon full execution (or deemed acceptance) of a Confirmation, such Confirmation shall control in the event of any conflict with the terms of a Recording, or in the event of any conflict with the terms of this Master Agreement.

ARTICLE THREE: OBLIGATIONS AND DELIVERIES

3.1 Seller's and Buyer's Obligations. With respect to each Transaction, Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, the Quantity of the Product at the Delivery Point, and Buyer shall pay Seller the Contract Price; provided, however, with respect to Options, the obligations set forth in the preceding sentence shall only arise if the Option Buyer exercises its Option in accordance with its terms. Seller shall be responsible for any costs or charges imposed on or associated with the Product or its delivery of the Product up to the Delivery Point. Buyer shall be responsible for any costs or charges imposed on or associated with the Product or its receipt at and from the Delivery Point.

3.2 Transmission and Scheduling. Seller shall arrange and be responsible for transmission service to the Delivery Point and shall Schedule or arrange for Scheduling services

with its Transmission Providers, as specified by the Parties in the Transaction, or in the absence thereof, in accordance with the practice of the Transmission Providers, to deliver the Product to the Delivery Point. Buyer shall arrange and be responsible for transmission service at and from the Delivery Point and shall Schedule or arrange for Scheduling services with its Transmission Providers to receive the Product at the Delivery Point.

3.3 Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under the Transaction and such Party (the “Claiming Party”) gives notice and details of the Force Majeure to the other Party as soon as practicable, then, unless the terms of the Product specify otherwise, the Claiming Party shall be excused from the performance of its obligations with respect to such Transaction (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). The Claiming Party shall remedy the Force Majeure with all reasonable dispatch. The non-Claiming Party shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure.

ARTICLE FOUR: REMEDIES FOR FAILURE TO DELIVER/RECEIVE

4.1 Seller Failure. If Seller fails to schedule and/or deliver all or part of the Product pursuant to a Transaction, and such failure is not excused under the terms of the Product or by Buyer’s failure to perform, then Seller shall pay Buyer, on the date payment would otherwise be due in respect of the month in which the failure occurred or, if “Accelerated Payment of Damages” is specified on the Cover Sheet, within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

4.2 Buyer Failure. If Buyer fails to schedule and/or receive all or part of the Product pursuant to a Transaction and such failure is not excused under the terms of the Product or by Seller’s failure to perform, then Buyer shall pay Seller, on the date payment would otherwise be due in respect of the month in which the failure occurred or, if “Accelerated Payment of Damages” is specified on the Cover Sheet, within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

ARTICLE FIVE: EVENTS OF DEFAULT; REMEDIES

5.1 Events of Default. An “Event of Default” shall mean, with respect to a Party (a “Defaulting Party”), the occurrence of any of the following:

- (a) the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within three (3) Business Days after written notice;

- (b) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated;
- (c) the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default, and except for such Party's obligations to deliver or receive the Product, the exclusive remedy for which is provided in Article Four) if such failure is not remedied within three (3) Business Days after written notice;
- (d) such Party becomes Bankrupt;
- (e) the failure of such Party to satisfy the creditworthiness/collateral requirements agreed to pursuant to Article Eight hereof;
- (f) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party;
- (g) if the applicable cross default section in the Cover Sheet is indicated for such Party, the occurrence and continuation of (i) a default, event of default or other similar condition or event in respect of such Party or any other party specified in the Cover Sheet for such Party under one or more agreements or instruments, individually or collectively, relating to indebtedness for borrowed money in an aggregate amount of not less than the applicable Cross Default Amount (as specified in the Cover Sheet), which results in such indebtedness becoming, or becoming capable at such time of being declared, immediately due and payable or (ii) a default by such Party or any other party specified in the Cover Sheet for such Party in making on the due date therefor one or more payments, individually or collectively, in an aggregate amount of not less than the applicable Cross Default Amount (as specified in the Cover Sheet);
- (h) with respect to such Party's Guarantor, if any:
 - (i) if any representation or warranty made by a Guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated;
 - (ii) the failure of a Guarantor to make any payment required or to perform any other material covenant or obligation in any guaranty made in connection with this Agreement and such failure shall not be remedied within three (3) Business Days after written notice;

- (iii) a Guarantor becomes Bankrupt;
- (iv) the failure of a Guarantor's guaranty to be in full force and effect for purposes of this Agreement (other than in accordance with its terms) prior to the satisfaction of all obligations of such Party under each Transaction to which such guaranty shall relate without the written consent of the other Party; or
- (v) a Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any guaranty.

5.2 Declaration of an Early Termination Date and Calculation of Settlement Amounts. If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party (the "Non-Defaulting Party") shall have the right (i) to designate a day, no earlier than the day such notice is effective and no later than 20 days after such notice is effective, as an early termination date ("Early Termination Date") to accelerate all amounts owing between the Parties and to liquidate and terminate all, but not less than all, Transactions (each referred to as a "Terminated Transaction") between the Parties, (ii) withhold any payments due to the Defaulting Party under this Agreement and (iii) suspend performance. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for each such Terminated Transaction as of the Early Termination Date (or, to the extent that in the reasonable opinion of the Non-Defaulting Party certain of such Terminated Transactions are commercially impracticable to liquidate and terminate or may not be liquidated and terminated under applicable law on the Early Termination Date, as soon thereafter as is reasonably practicable).

5.3 Net Out of Settlement Amounts. The Non-Defaulting Party shall aggregate all Settlement Amounts into a single amount by: netting out (a) all Settlement Amounts that are due to the Defaulting Party, plus, at the option of the Non-Defaulting Party, any cash or other form of security then available to the Non-Defaulting Party pursuant to Article Eight, plus any or all other amounts due to the Defaulting Party under this Agreement against (b) all Settlement Amounts that are due to the Non-Defaulting Party, plus any or all other amounts due to the Non-Defaulting Party under this Agreement, so that all such amounts shall be netted out to a single liquidated amount (the "Termination Payment") payable by one Party to the other. The Termination Payment shall be due to or due from the Non-Defaulting Party as appropriate.

5.4 Notice of Payment of Termination Payment. As soon as practicable after a liquidation, notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to or due from the Non-Defaulting Party. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. The Termination Payment shall be made by the Party that owes it within two (2) Business Days after such notice is effective.

5.5 Disputes With Respect to Termination Payment. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within two (2) Business Days of receipt of Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written

explanation of the basis for such dispute; provided, however, that if the Termination Payment is due from the Defaulting Party, the Defaulting Party shall first transfer Performance Assurance to the Non-Defaulting Party in an amount equal to the Termination Payment.

5.6 Closeout Setoffs.

Option A: After calculation of a Termination Payment in accordance with Section 5.3, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to (i) set off against such Termination Payment any amounts due and owing by the Defaulting Party to the Non-Defaulting Party under any other agreements, instruments or undertakings between the Defaulting Party and the Non-Defaulting Party and/or (ii) to the extent the Transactions are not yet liquidated in accordance with Section 5.2, withhold payment of the Termination Payment to the Defaulting Party. The remedy provided for in this Section shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

Option B: After calculation of a Termination Payment in accordance with Section 5.3, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to (i) set off against such Termination Payment any amounts due and owing by the Defaulting Party or any of its Affiliates to the Non-Defaulting Party or any of its Affiliates under any other agreements, instruments or undertakings between the Defaulting Party or any of its Affiliates and the Non-Defaulting Party or any of its Affiliates and/or (ii) to the extent the Transactions are not yet liquidated in accordance with Section 5.2, withhold payment of the Termination Payment to the Defaulting Party. The remedy provided for in this Section shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

Option C: Neither Option A nor B shall apply.

5.7 Suspension of Performance. Notwithstanding any other provision of this Master Agreement, if (a) an Event of Default or (b) a Potential Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, shall have the right (i) to suspend performance under any or all Transactions; provided, however, in no event shall any such suspension continue for longer than ten (10) NERC Business Days with respect to any single Transaction unless an early Termination Date shall have been declared and notice thereof pursuant to Section 5.2 given, and (ii) to the extent an Event of Default shall have occurred and be continuing to exercise any remedy available at law or in equity.

ARTICLE SIX: PAYMENT AND NETTING

6.1 Billing Period. Unless otherwise specifically agreed upon by the Parties in a Transaction, the calendar month shall be the standard period for all payments under this Agreement (other than Termination Payments and, if “Accelerated Payment of Damages” is specified by the Parties in the Cover Sheet, payments pursuant to Section 4.1 or 4.2 and Option premium payments pursuant to Section 6.7). As soon as practicable after the end of each month,

each Party will render to the other Party an invoice for the payment obligations, if any, incurred hereunder during the preceding month.

6.2 Timeliness of Payment. Unless otherwise agreed by the Parties in a Transaction, all invoices under this Master Agreement shall be due and payable in accordance with each Party's invoice instructions on or before the later of the twentieth (20th) day of each month, or tenth (10th) day after receipt of the invoice or, if such day is not a Business Day, then on the next Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

6.3 Disputes and Adjustments of Invoices. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice, rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 6.3 within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance of a Transaction occurred, the right to payment for such performance is waived.

6.4 Netting of Payments. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date pursuant to all Transactions through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under this Master Agreement, including any related damages calculated pursuant to Article Four (unless one of the Parties elects to accelerate payment of such amounts as permitted by Article Four), interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

6.5 Payment Obligation Absent Netting. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, including, but not limited to, any related damage amounts calculated pursuant to Article Four, interest, and payments or credits, that Party shall pay such sum in full when due.

6.6 Security. Unless the Party benefiting from Performance Assurance or a guaranty notifies the other Party in writing, and except in connection with a liquidation and termination in accordance with Article Five, all amounts netted pursuant to this Article Six shall not take into account or include any Performance Assurance or guaranty which may be in effect to secure a Party's performance under this Agreement.

6.7 Payment for Options. The premium amount for the purchase of an Option shall be paid within two (2) Business Days of receipt of an invoice from the Option Seller. Upon exercise of an Option, payment for the Product underlying such Option shall be due in accordance with Section 6.1.

6.8 Transaction Netting. If the Parties enter into one or more Transactions, which in conjunction with one or more other outstanding Transactions, constitute Offsetting Transactions, then all such Offsetting Transactions may by agreement of the Parties, be netted into a single Transaction under which:

- (a) the Party obligated to deliver the greater amount of Energy will deliver the difference between the total amount it is obligated to deliver and the total amount to be delivered to it under the Offsetting Transactions, and
- (b) the Party owing the greater aggregate payment will pay the net difference owed between the Parties.

Each single Transaction resulting under this Section shall be deemed part of the single, indivisible contractual arrangement between the parties, and once such resulting Transaction occurs, outstanding obligations under the Offsetting Transactions which are satisfied by such offset shall terminate.

ARTICLE SEVEN: LIMITATIONS

7.1 Limitation of Remedies, Liability and Damages. EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN OR IN A TRANSACTION, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR

OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

ARTICLE EIGHT: CREDIT AND COLLATERAL REQUIREMENTS

8.1 Party A Credit Protection. The applicable credit and collateral requirements shall be as specified on the Cover Sheet. If no option in Section 8.1(a) is specified on the Cover Sheet, Section 8.1(a) Option C shall apply exclusively. If none of Sections 8.1(b), 8.1(c) or 8.1(d) are specified on the Cover Sheet, Section 8.1(b) shall apply exclusively.

(a) Financial Information. Option A: If requested by Party A, Party B shall deliver (i) within 120 days following the end of each fiscal year, a copy of Party B's annual report containing audited consolidated financial statements for such fiscal year and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of Party B's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as Party B diligently pursues the preparation, certification and delivery of the statements.

Option B: If requested by Party A, Party B shall deliver (i) within 120 days following the end of each fiscal year, a copy of the annual report containing audited consolidated financial statements for such fiscal year for the party(s) specified on the Cover Sheet and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of quarterly report containing unaudited consolidated financial statements for such fiscal quarter for the party(s) specified on the Cover Sheet. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements.

Option C: Party A may request from Party B the information specified in the Cover Sheet.

(b) Credit Assurances. If Party A has reasonable grounds to believe that Party B's creditworthiness or performance under this Agreement has become unsatisfactory, Party A will provide Party B with written notice requesting Performance Assurance in an amount determined by Party A in a commercially reasonable manner. Upon receipt of such notice Party B shall have three (3) Business Days to remedy the situation by providing such Performance Assurance to Party A. In the event that Party B fails to provide such Performance Assurance, or a guaranty or other credit assurance acceptable to Party A within three (3) Business Days of receipt of notice, then an Event of Default under Article Five will be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

(c) Collateral Threshold. If at any time and from time to time during the term of this Agreement (and notwithstanding whether an Event of Default has occurred), the Termination Payment that would be owed to Party A plus Party B's Independent Amount, if any, exceeds the Party B Collateral Threshold, then Party A, on any Business Day, may request that Party B provide Performance Assurance in an amount equal to the amount by which the Termination Payment plus Party B's Independent Amount, if any, exceeds the Party B Collateral Threshold (rounding upwards for any fractional amount to the next Party B Rounding Amount) ("Party B Performance Assurance"), less any Party B Performance Assurance already posted with Party A. Such Party B Performance Assurance shall be delivered to Party A within three (3) Business Days of the date of such request. On any Business Day (but no more frequently than weekly with respect to Letters of Credit and daily with respect to cash), Party B, at its sole cost, may request that such Party B Performance Assurance be reduced correspondingly to the amount of such excess Termination Payment plus Party B's Independent Amount, if any, (rounding upwards for any fractional amount to the next Party B Rounding Amount). In the event that Party B fails to provide Party B Performance Assurance pursuant to the terms of this Article Eight within three (3) Business Days, then an Event of Default under Article Five shall be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

For purposes of this Section 8.1(c), the calculation of the Termination Payment shall be calculated pursuant to Section 5.3 by Party A as if all outstanding Transactions had been liquidated, and in addition thereto, shall include all amounts owed but not yet paid by Party B to Party A, whether or not such amounts are due, for performance already provided pursuant to any and all Transactions.

(d) Downgrade Event. If at any time there shall occur a Downgrade Event in respect of Party B, then Party A may require Party B to provide Performance Assurance in an amount determined by Party A in a commercially reasonable manner. In the event Party B shall fail to provide such Performance Assurance or a guaranty or other credit assurance acceptable to Party A within three (3) Business Days of receipt of notice, then an Event of Default shall be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

(e) If specified on the Cover Sheet, Party B shall deliver to Party A, prior to or concurrently with the execution and delivery of this Master Agreement a guarantee in an amount not less than the Guarantee Amount specified on the Cover Sheet and in a form reasonably acceptable to Party A.

8.2 Party B Credit Protection. The applicable credit and collateral requirements shall be as specified on the Cover Sheet. If no option in Section 8.2(a) is specified on the Cover Sheet, Section 8.2(a) Option C shall apply exclusively. If none of Sections 8.2(b), 8.2(c) or 8.2(d) are specified on the Cover Sheet, Section 8.2(b) shall apply exclusively.

(a) Financial Information. Option A: If requested by Party B, Party A shall deliver (i) within 120 days following the end of each fiscal year, a copy of Party A's annual report containing audited consolidated financial statements for such fiscal year and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of such Party's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as such Party diligently pursues the preparation, certification and delivery of the statements.

Option B: If requested by Party B, Party A shall deliver (i) within 120 days following the end of each fiscal year, a copy of the annual report containing audited consolidated financial statements for such fiscal year for the party(s) specified on the Cover Sheet and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of quarterly report containing unaudited consolidated financial statements for such fiscal quarter for the party(s) specified on the Cover Sheet. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements.

Option C: Party B may request from Party A the information specified in the Cover Sheet.

(b) Credit Assurances. If Party B has reasonable grounds to believe that Party A's creditworthiness or performance under this Agreement has become unsatisfactory, Party B will provide Party A with written notice requesting Performance Assurance in an amount determined by Party B in a commercially reasonable manner. Upon receipt of such notice Party A shall have three (3) Business Days to remedy the situation by providing such Performance Assurance to Party B. In the event that Party A fails to provide such Performance Assurance, or a guaranty or other credit assurance acceptable to Party B within three (3) Business Days of receipt of notice, then an Event of Default under Article Five will be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

(c) Collateral Threshold. If at any time and from time to time during the term of this Agreement (and notwithstanding whether an Event of Default has occurred), the Termination Payment that would be owed to Party B plus Party A's Independent Amount, if any, exceeds the Party A Collateral Threshold, then Party B, on any Business Day, may request that Party A provide Performance Assurance in an amount equal to the amount by which the Termination Payment plus Party A's Independent Amount, if any, exceeds the Party A Collateral

Threshold (rounding upwards for any fractional amount to the next Party A Rounding Amount) (“Party A Performance Assurance”), less any Party A Performance Assurance already posted with Party B. Such Party A Performance Assurance shall be delivered to Party B within three (3) Business Days of the date of such request. On any Business Day (but no more frequently than weekly with respect to Letters of Credit and daily with respect to cash), Party A, at its sole cost, may request that such Party A Performance Assurance be reduced correspondingly to the amount of such excess Termination Payment plus Party A’s Independent Amount, if any, (rounding upwards for any fractional amount to the next Party A Rounding Amount). In the event that Party A fails to provide Party A Performance Assurance pursuant to the terms of this Article Eight within three (3) Business Days, then an Event of Default under Article Five shall be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

For purposes of this Section 8.2(c), the calculation of the Termination Payment shall be calculated pursuant to Section 5.3 by Party B as if all outstanding Transactions had been liquidated, and in addition thereto, shall include all amounts owed but not yet paid by Party A to Party B, whether or not such amounts are due, for performance already provided pursuant to any and all Transactions.

(d) Downgrade Event. If at any time there shall occur a Downgrade Event in respect of Party A, then Party B may require Party A to provide Performance Assurance in an amount determined by Party B in a commercially reasonable manner. In the event Party A shall fail to provide such Performance Assurance or a guaranty or other credit assurance acceptable to Party B within three (3) Business Days of receipt of notice, then an Event of Default shall be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

(e) If specified on the Cover Sheet, Party A shall deliver to Party B, prior to or concurrently with the execution and delivery of this Master Agreement a guarantee in an amount not less than the Guarantee Amount specified on the Cover Sheet and in a form reasonably acceptable to Party B.

8.3 Grant of Security Interest/Remedies. To secure its obligations under this Agreement and to the extent either or both Parties deliver Performance Assurance hereunder, each Party (a “Pledgor”) hereby grants to the other Party (the “Secured Party”) a present and continuing security interest in, and lien on (and right of setoff against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, such Secured Party, and each Party agrees to take such action as the other Party reasonably requires in order to perfect the Secured Party’s first-priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default or an Early Termination Date, the Non-Defaulting Party may do any one or more of the following: (i) exercise any of the rights and remedies of a Secured Party with respect to all Performance Assurance, including any such rights and remedies under law then in effect; (ii) exercise its rights of setoff against any and all property of the Defaulting Party in the possession of the Non-Defaulting Party or its agent; (iii) draw on any outstanding

Letter of Credit issued for its benefit; and (iv) liquidate all Performance Assurance then held by or for the benefit of the Secured Party free from any claim or right of any nature whatsoever of the Defaulting Party, including any equity or right of purchase or redemption by the Defaulting Party. The Secured Party shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce the Pledgor's obligations under the Agreement (the Pledgor remaining liable for any amounts owing to the Secured Party after such application), subject to the Secured Party's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

ARTICLE NINE: GOVERNMENTAL CHARGES

9.1 Cooperation. Each Party shall use reasonable efforts to implement the provisions of and to administer this Master Agreement in accordance with the intent of the parties to minimize all taxes , so long as neither Party is materially adversely affected by such efforts.

9.2 Governmental Charges. Seller shall pay or cause to be paid all taxes imposed by any government authority("Governmental Charges") on or with respect to the Product or a Transaction arising prior to the Delivery Point. Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Product or a Transaction at and from the Delivery Point (other than ad valorem, franchise or income taxes which are related to the sale of the Product and are, therefore, the responsibility of the Seller). In the event Seller is required by law or regulation to remit or pay Governmental Charges which are Buyer's responsibility hereunder, Buyer shall promptly reimburse Seller for such Governmental Charges. If Buyer is required by law or regulation to remit or pay Governmental Charges which are Seller's responsibility hereunder, Buyer may deduct the amount of any such Governmental Charges from the sums due to Seller under Article 6 of this Agreement. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under the law.

ARTICLE TEN: MISCELLANEOUS

10.1 Term of Master Agreement. The term of this Master Agreement shall commence on the Effective Date and shall remain in effect until terminated by either Party upon (thirty) 30 days' prior written notice; provided, however, that such termination shall not affect or excuse the performance of either Party under any provision of this Master Agreement that by its terms survives any such termination and, provided further, that this Master Agreement and any other documents executed and delivered hereunder shall remain in effect with respect to the Transaction(s) entered into prior to the effective date of such termination until both Parties have fulfilled all of their obligations with respect to such Transaction(s), or such Transaction(s) that have been terminated under Section 5.2 of this Agreement.

10.2 Representations and Warranties. On the Effective Date and the date of entering into each Transaction, each Party represents and warrants to the other Party that:

- (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

- (ii) it has all regulatory authorizations necessary for it to legally perform its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (iii) the execution, delivery and performance of this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;
- (iv) this Master Agreement, each Transaction (including any Confirmation accepted in accordance with Section 2.3), and each other document executed and delivered in accordance with this Master Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms; subject to any Equitable Defenses.
- (v) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;
- (vi) there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (vii) no Event of Default or Potential Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (viii) it is acting for its own account, has made its own independent decision to enter into this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) and as to whether this Master Agreement and each such Transaction (including any Confirmation accepted in accordance with Section 2.3) is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (ix) it is a “forward contract merchant” within the meaning of the United States Bankruptcy Code;

- (x) it has entered into this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) in connection with the conduct of its business and it has the capacity or ability to make or take delivery of all Products referred to in the Transaction to which it is a Party;
- (xi) with respect to each Transaction (including any Confirmation accepted in accordance with Section 2.3) involving the purchase or sale of a Product or an Option, it is a producer, processor, commercial user or merchant handling the Product, and it is entering into such Transaction for purposes related to its business as such; and
- (xii) the material economic terms of each Transaction are subject to individual negotiation by the Parties.

10.3 Title and Risk of Loss. Title to and risk of loss related to the Product shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that it will deliver to Buyer the Quantity of the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to the Delivery Point.

10.4 Indemnity. Each Party shall indemnify, defend and hold harmless the other Party from and against any Claims arising from or out of any event, circumstance, act or incident first occurring or existing during the period when control and title to Product is vested in such Party as provided in Section 10.3. Each Party shall indemnify, defend and hold harmless the other Party against any Governmental Charges for which such Party is responsible under Article Nine.

10.5 Assignment. Neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent may be withheld in the exercise of its sole discretion; provided, however, either Party may, without the consent of the other Party (and without relieving itself from liability hereunder), (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements, (ii) transfer or assign this Agreement to an affiliate of such Party which affiliate's creditworthiness is equal to or higher than that of such Party, or (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets whose creditworthiness is equal to or higher than that of such Party; provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof and so long as the transferring Party delivers such tax and enforceability assurance as the non-transferring Party may reasonably request.

10.6 Governing Law. THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

10.7 Notices. All notices, requests, statements or payments shall be made as specified in the Cover Sheet. Notices (other than scheduling requests) shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, United States mail, overnight courier service or facsimile. Notice by facsimile or hand delivery shall be effective at the close of business on the day actually received, if received during business hours on a Business Day, and otherwise shall be effective at the close of business on the next Business Day. Notice by overnight United States mail or courier shall be effective on the next Business Day after it was sent. A Party may change its addresses by providing notice of same in accordance herewith.

10.8 General. This Master Agreement (including the exhibits, schedules and any written supplements hereto), the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any Confirmation accepted in accordance with Section 2.3) constitute the entire agreement between the Parties relating to the subject matter. Notwithstanding the foregoing, any collateral, credit support or margin agreement or similar arrangement between the Parties shall, upon designation by the Parties, be deemed part of this Agreement and shall be incorporated herein by reference. This Agreement shall be considered for all purposes as prepared through the joint efforts of the parties and shall not be construed against one party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof. Except to the extent herein provided for, no amendment or modification to this Master Agreement shall be enforceable unless reduced to writing and executed by both Parties. Each Party agrees if it seeks to amend any applicable wholesale power sales tariff during the term of this Agreement, such amendment will not in any way affect outstanding Transactions under this Agreement without the prior written consent of the other Party. Each Party further agrees that it will not assert, or defend itself, on the basis that any applicable tariff is inconsistent with this Agreement. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement). Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default. Any provision declared or rendered unlawful by any applicable court of law or regulatory agency or deemed unlawful because of a statutory change (individually or collectively, such events referred to as "Regulatory Event") will not otherwise affect the remaining lawful obligations that arise under this Agreement; and provided, further, that if a Regulatory Event occurs, the Parties shall use their best efforts to reform this Agreement in order to give effect to the original intention of the Parties. The term "including" when used in this Agreement shall be by way of example only and shall not be considered in any way to be in limitation. The headings used herein are for convenience and reference purposes only. All indemnity and audit rights shall survive the termination of this Agreement for twelve (12) months. This Agreement shall be binding on each Party's successors and permitted assigns.

10.9 Audit. Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Master Agreement. If requested, a Party shall provide to the other Party statements evidencing the Quantity delivered at the Delivery Point. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be

made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived.

10.10 Forward Contract. The Parties acknowledge and agree that all Transactions constitute “forward contracts” within the meaning of the United States Bankruptcy Code.

10.11 Confidentiality. If the Parties have elected on the Cover Sheet to make this Section 10.11 applicable to this Master Agreement, neither Party shall disclose the terms or conditions of a Transaction under this Master Agreement to a third party (other than the Party’s employees, lenders, counsel, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential) except in order to comply with any applicable law, regulation, or any exchange, control area or independent system operator rule or in connection with any court or regulatory proceeding; provided, however, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation.

SCHEDULE M

(THIS SCHEDULE IS INCLUDED IF THE APPROPRIATE BOX ON THE COVER SHEET IS MARKED INDICATING A PARTY IS A GOVERNMENTAL ENTITY OR PUBLIC POWER SYSTEM)

A. The Parties agree to add the following definitions in Article One.

“Act” means _____.¹

“Governmental Entity or Public Power System” means a municipality, county, governmental board, public power authority, public utility district, joint action agency, or other similar political subdivision or public entity of the United States, one or more States or territories or any combination thereof.

“Special Fund” means a fund or account of the Governmental Entity or Public Power System set aside and or pledged to satisfy the Public Power System’s obligations hereunder out of which amounts shall be paid to satisfy all of the Public Power System’s obligations under this Master Agreement for the entire Delivery Period.

B. The following sentence shall be added to the end of the definition of “Force Majeure” in Article One.

If the Claiming Party is a Governmental Entity or Public Power System, Force Majeure does not include any action taken by the Governmental Entity or Public Power System in its governmental capacity.

C. The Parties agree to add the following representations and warranties to Section 10.2:

Further and with respect to a Party that is a Governmental Entity or Public Power System, such Governmental Entity or Public Power System represents and warrants to the other Party continuing throughout the term of this Master Agreement, with respect to this Master Agreement and each Transaction, as follows: (i) all acts necessary to the valid execution, delivery and performance of this Master Agreement, including without limitation, competitive bidding, public notice, election, referendum, prior appropriation or other required procedures has or will be taken and performed as required under the Act and the Public Power System’s ordinances, bylaws or other regulations, (ii) all persons making up the governing body of Governmental Entity or Public Power System are the duly elected or appointed incumbents in their positions and hold such

¹ Cite the state enabling and other relevant statutes applicable to Governmental Entity or Public Power System.

positions in good standing in accordance with the Act and other applicable law, (iii) entry into and performance of this Master Agreement by Governmental Entity or Public Power System are for a proper public purpose within the meaning of the Act and all other relevant constitutional, organic or other governing documents and applicable law, (iv) the term of this Master Agreement does not extend beyond any applicable limitation imposed by the Act or other relevant constitutional, organic or other governing documents and applicable law, (v) the Public Power System's obligations to make payments hereunder are unsubordinated obligations and such payments are (a) operating and maintenance costs (or similar designation) which enjoy first priority of payment at all times under any and all bond ordinances or indentures to which it is a party, the Act and all other relevant constitutional, organic or other governing documents and applicable law or (b) otherwise not subject to any prior claim under any and all bond ordinances or indentures to which it is a party, the Act and all other relevant constitutional, organic or other governing documents and applicable law and are available without limitation or deduction to satisfy all Governmental Entity or Public Power System' obligations hereunder and under each Transaction or (c) are to be made solely from a Special Fund, (vi) entry into and performance of this Master Agreement and each Transaction by the Governmental Entity or Public Power System will not adversely affect the exclusion from gross income for federal income tax purposes of interest on any obligation of Governmental Entity or Public Power System otherwise entitled to such exclusion, and (vii) obligations to make payments hereunder do not constitute any kind of indebtedness of Governmental Entity or Public Power System or create any kind of lien on, or security interest in, any property or revenues of Governmental Entity or Public Power System which, in either case, is proscribed by any provision of the Act or any other relevant constitutional, organic or other governing documents and applicable law, any order or judgment of any court or other agency of government applicable to it or its assets, or any contractual restriction binding on or affecting it or any of its assets.

D. The Parties agree to add the following sections to Article Three:

Section 3.4 Public Power System's Deliveries. On the Effective Date and as a condition to the obligations of the other Party under this Agreement, Governmental Entity or Public Power System shall provide the other Party hereto (i) certified copies of all ordinances, resolutions, public notices and other documents evidencing the necessary authorizations with respect to the execution, delivery and performance by Governmental Entity or Public Power System of this Master Agreement and (ii) an opinion of counsel for Governmental Entity or Public Power System, in form and substance reasonably satisfactory to the Other Party, regarding the validity, binding effect and enforceability of this Master Agreement against Governmental Entity or Public Power System in

respect of the Act and all other relevant constitutional organic or other governing documents and applicable law.

Section 3.5 No Immunity Claim. Governmental Entity or Public Power System warrants and covenants that with respect to its contractual obligations hereunder and performance thereof, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (a) suit, (b) jurisdiction of court (including a court located outside the jurisdiction of its organization), (c) relief by way of injunction, order for specific performance or recovery of property, (d) attachment of assets, or (e) execution or enforcement of any judgment.

E. If the appropriate box is checked on the Cover Sheet, as an alternative to selecting one of the options under Section 8.3, the Parties agree to add the following section to Article Three:

Section 3.6 Governmental Entity or Public Power System Security. With respect to each Transaction, Governmental Entity or Public Power System shall either (i) have created and set aside a Special Fund or (ii) upon execution of this Master Agreement and prior to the commencement of each subsequent fiscal year of Governmental Entity or Public Power System during any Delivery Period, have obtained all necessary budgetary approvals and certifications for payment of all of its obligations under this Master Agreement for such fiscal year; any breach of this provision shall be deemed to have arisen during a fiscal period of Governmental Entity or Public Power System for which budgetary approval or certification of its obligations under this Master Agreement is in effect and, notwithstanding anything to the contrary in Article Four, an Early Termination Date shall automatically and without further notice occur hereunder as of such date wherein Governmental Entity or Public Power System shall be treated as the Defaulting Party. Governmental Entity or Public Power System shall have allocated to the Special Fund or its general funds a revenue base that is adequate to cover Public Power System's payment obligations hereunder throughout the entire Delivery Period.

F. If the appropriate box is checked on the Cover Sheet, the Parties agree to add the following section to Article Eight:

Section 8.4 Governmental Security. As security for payment and performance of Public Power System's obligations hereunder, Public Power System hereby pledges, sets over, assigns and grants to the other Party a security interest in all of Public Power System's right, title and interest in and to [specify collateral].

G. The Parties agree to add the following sentence at the end of Section 10.6 - Governing Law:

NOTWITHSTANDING THE FOREGOING, IN RESPECT OF THE APPLICABILITY OF THE ACT AS HEREIN PROVIDED, THE LAWS OF THE STATE OF _____² SHALL APPLY.

² Insert relevant state for Governmental Entity or Public Power System.

SCHEDULE P: PRODUCTS AND RELATED DEFINITIONS

“Ancillary Services” means any of the services identified by a Transmission Provider in its transmission tariff as “ancillary services” including, but not limited to, regulation and frequency response, energy imbalance, operating reserve-spinning and operating reserve-supplemental, as may be specified in the Transaction.

“Capacity” has the meaning specified in the Transaction.

“Energy” means three-phase, 60-cycle alternating current electric energy, expressed in megawatt hours.

“Firm (LD)” means, with respect to a Transaction, that either Party shall be relieved of its obligations to sell and deliver or purchase and receive without liability only to the extent that, and for the period during which, such performance is prevented by Force Majeure. In the absence of Force Majeure, the Party to which performance is owed shall be entitled to receive from the Party which failed to deliver/receive an amount determined pursuant to Article Four.

“Firm Transmission Contingent - Contract Path” means, with respect to a Transaction, that the performance of either Seller or Buyer (as specified in the Transaction) shall be excused, and no damages shall be payable including any amounts determined pursuant to Article Four, if the transmission for such Transaction is interrupted or curtailed and (i) such Party has provided for firm transmission with the transmission provider(s) for the Product in the case of the Seller from the generation source to the Delivery Point or in the case of the Buyer from the Delivery Point to the ultimate sink, and (ii) such interruption or curtailment is due to “force majeure” or “uncontrollable force” or a similar term as defined under the applicable transmission provider’s tariff. This contingency shall excuse performance for the duration of the interruption or curtailment notwithstanding the provisions of the definition of “Force Majeure” in Section 1.23 to the contrary.

“Firm Transmission Contingent - Delivery Point” means, with respect to a Transaction, that the performance of either Seller or Buyer (as specified in the Transaction) shall be excused, and no damages shall be payable including any amounts determined pursuant to Article Four, if the transmission to the Delivery Point (in the case of Seller) or from the Delivery Point (in the case of Buyer) for such Transaction is interrupted or curtailed and (i) such Party has provided for firm transmission with the transmission provider(s) for the Product, in the case of the Seller, to be delivered to the Delivery Point or, in the case of Buyer, to be received at the Delivery Point and (ii) such interruption or curtailment is due to “force majeure” or “uncontrollable force” or a similar term as defined under the applicable transmission provider’s tariff. This transmission contingency excuses performance for the duration of the interruption or curtailment, notwithstanding the provisions of the definition of “Force Majeure” in Section 1.23 to the contrary. Interruptions or curtailments of transmission other than the transmission either immediately to or from the Delivery Point shall not excuse performance

“Firm (No Force Majeure)” means, with respect to a Transaction, that if either Party fails to perform its obligation to sell and deliver or purchase and receive the Product, the Party to which performance is owed shall be entitled to receive from the Party which failed to perform an

amount determined pursuant to Article Four. Force Majeure shall not excuse performance of a Firm (No Force Majeure) Transaction.

“Into _____ (the “Receiving Transmission Provider”), Seller’s Daily Choice” means that, in accordance with the provisions set forth below, (1) the Product shall be scheduled and delivered to an interconnection or interface (“Interface”) either (a) on the Receiving Transmission Provider’s transmission system border or (b) within the control area of the Receiving Transmission Provider if the Product is from a source of generation in that control area, which Interface, in either case, the Receiving Transmission Provider identifies as available for delivery of the Product in or into its control area; and (2) Seller has the right on a daily prescheduled basis to designate the Interface where the Product shall be delivered. An “Into” Product shall be subject to the following provisions:

1. Prescheduling and Notification. Subject to the provisions of Section 6, not later than the prescheduling deadline of 11:00 a.m. CPT on the Business Day before the next delivery day or as otherwise agreed to by Buyer and Seller, Seller shall notify Buyer (“Seller’s Notification”) of Seller’s immediate upstream counterparty and the Interface (the “Designated Interface”) where Seller shall deliver the Product for the next delivery day, and Buyer shall notify Seller of Buyer’s immediate downstream counterparty.

2. Availability of “Firm Transmission” to Buyer at Designated Interface; “Timely Request for Transmission,” “ADI” and “Available Transmission.” In determining availability to Buyer of next-day firm transmission (“Firm Transmission”) from the Designated Interface, a “Timely Request for Transmission” shall mean a properly completed request for Firm Transmission made by Buyer in accordance with the controlling tariff procedures, which request shall be submitted to the Receiving Transmission Provider no later than 30 minutes after delivery of Seller’s Notification, provided, however, if the Receiving Transmission Provider is not accepting requests for Firm Transmission at the time of Seller’s Notification, then such request by Buyer shall be made within 30 minutes of the time when the Receiving Transmission Provider first opens thereafter for purposes of accepting requests for Firm Transmission.

Pursuant to the terms hereof, delivery of the Product may under certain circumstances be redesignated to occur at an Interface other than the Designated Interface (any such alternate designated interface, an “ADI”) either (a) on the Receiving Transmission Provider’s transmission system border or (b) within the control area of the Receiving Transmission Provider if the Product is from a source of generation in that control area, which ADI, in either case, the Receiving Transmission Provider identifies as available for delivery of the Product in or into its control area using either firm or non-firm transmission, as available on a day-ahead or hourly basis (individually or collectively referred to as “Available Transmission”) within the Receiving Transmission Provider’s transmission system.

3. Rights of Buyer and Seller Depending Upon Availability of/Timely Request for Firm Transmission.

A. Timely Request for Firm Transmission made by Buyer, Accepted by the Receiving Transmission Provider and Purchased by Buyer. If a Timely Request for Firm Transmission is made by Buyer and is accepted by the Receiving Transmission Provider

and Buyer purchases such Firm Transmission, then Seller shall deliver and Buyer shall receive the Product at the Designated Interface.

i. If the Firm Transmission purchased by Buyer within the Receiving Transmission Provider's transmission system from the Designated Interface ceases to be available to Buyer for any reason, or if Seller is unable to deliver the Product at the Designated Interface for any reason except Buyer's non-performance, then at Seller's choice from among the following, Seller shall: (a) to the extent Firm Transmission is available to Buyer from an ADI on a day-ahead basis, require Buyer to purchase such Firm Transmission from such ADI, and schedule and deliver the affected portion of the Product to such ADI on the basis of Buyer's purchase of Firm Transmission, or (b) require Buyer to purchase non-firm transmission, and schedule and deliver the affected portion of the Product on the basis of Buyer's purchase of non-firm transmission from the Designated Interface or an ADI designated by Seller, or (c) to the extent firm transmission is available on an hourly basis, require Buyer to purchase firm transmission, and schedule and deliver the affected portion of the Product on the basis of Buyer's purchase of such hourly firm transmission from the Designated Interface or an ADI designated by Seller.

ii. If the Available Transmission utilized by Buyer as required by Seller pursuant to Section 3A(i) ceases to be available to Buyer for any reason, then Seller shall again have those alternatives stated in Section 3A(i) in order to satisfy its obligations.

iii. Seller's obligation to schedule and deliver the Product at an ADI is subject to Buyer's obligation referenced in Section 4B to cooperate reasonably therewith. If Buyer and Seller cannot complete the scheduling and/or delivery at an ADI, then Buyer shall be deemed to have satisfied its receipt obligations to Seller and Seller shall be deemed to have failed its delivery obligations to Buyer, and Seller shall be liable to Buyer for amounts determined pursuant to Article Four.

iv. In each instance in which Buyer and Seller must make alternative scheduling arrangements for delivery at the Designated Interface or an ADI pursuant to Sections 3A(i) or (ii), and Firm Transmission had been purchased by both Seller and Buyer into and within the Receiving Transmission Provider's transmission system as to the scheduled delivery which could not be completed as a result of the interruption or curtailment of such Firm Transmission, Buyer and Seller shall bear their respective transmission expenses and/or associated congestion charges incurred in connection with efforts to complete delivery by such alternative scheduling and delivery arrangements. In any instance except as set forth in the immediately preceding sentence, Buyer and Seller must make alternative scheduling arrangements for delivery at the Designated Interface or an ADI under Sections 3A(i) or (ii), Seller shall be responsible for any additional transmission purchases and/or associated congestion charges incurred by Buyer in connection with such alternative scheduling arrangements.

B. Timely Request for Firm Transmission Made by Buyer but Rejected by the Receiving Transmission Provider. If Buyer's Timely Request for Firm Transmission is rejected by the Receiving Transmission Provider because of unavailability of Firm Transmission from the Designated Interface, then Buyer shall notify Seller within 15 minutes after receipt of the Receiving Transmission Provider's notice of rejection ("Buyer's Rejection Notice"). If Buyer timely notifies Seller of such unavailability of Firm Transmission from the Designated Interface, then Seller shall be obligated either (1) to the extent Firm Transmission is available to Buyer from an ADI on a day-ahead basis, to require Buyer to purchase (at Buyer's own expense) such Firm Transmission from such ADI and schedule and deliver the Product to such ADI on the basis of Buyer's purchase of Firm Transmission, and thereafter the provisions in Section 3A shall apply, or (2) to require Buyer to purchase (at Buyer's own expense) non-firm transmission, and schedule and deliver the Product on the basis of Buyer's purchase of non-firm transmission from the Designated Interface or an ADI designated by the Seller, in which case Seller shall bear the risk of interruption or curtailment of the non-firm transmission; provided, however, that if the non-firm transmission is interrupted or curtailed or if Seller is unable to deliver the Product for any reason, Seller shall have the right to schedule and deliver the Product to another ADI in order to satisfy its delivery obligations, in which case Seller shall be responsible for any additional transmission purchases and/or associated congestion charges incurred by Buyer in connection with Seller's inability to deliver the Product as originally prescheduled. If Buyer fails to timely notify Seller of the unavailability of Firm Transmission, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated Interface, and the provisions of Section 3D shall apply.

C. Timely Request for Firm Transmission Made by Buyer, Accepted by the Receiving Transmission Provider and not Purchased by Buyer. If Buyer's Timely Request for Firm Transmission is accepted by the Receiving Transmission Provider but Buyer elects to purchase non-firm transmission rather than Firm Transmission to take delivery of the Product, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated Interface. In such circumstances, if Seller's delivery is interrupted as a result of transmission relied upon by Buyer from the Designated Interface, then Seller shall be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for amounts determined pursuant to Article Four.

D. No Timely Request for Firm Transmission Made by Buyer, or Buyer Fails to Timely Send Buyer's Rejection Notice. If Buyer fails to make a Timely Request for Firm Transmission or Buyer fails to timely deliver Buyer's Rejection Notice, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated Interface. In such circumstances, if Seller's delivery is interrupted as a result of transmission relied upon by Buyer from the Designated Interface, then Seller shall be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for amounts determined pursuant to Article Four.

4. Transmission.

A. Seller's Responsibilities. Seller shall be responsible for transmission required to deliver the Product to the Designated Interface or ADI, as the case may be. It is expressly agreed that Seller is not required to utilize Firm Transmission for its delivery obligations hereunder, and Seller shall bear the risk of utilizing non-firm transmission. If Seller's scheduled delivery to Buyer is interrupted as a result of Buyer's attempted transmission of the Product beyond the Receiving Transmission Provider's system border, then Seller will be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for damages pursuant to Article Four.

B. Buyer's Responsibilities. Buyer shall be responsible for transmission required to receive and transmit the Product at and from the Designated Interface or ADI, as the case may be, and except as specifically provided in Section 3A and 3B, shall be responsible for any costs associated with transmission therefrom. If Seller is attempting to complete the designation of an ADI as a result of Seller's rights and obligations hereunder, Buyer shall co-operate reasonably with Seller in order to effect such alternate designation.

5. Force Majeure. An "Into" Product shall be subject to the "Force Majeure" provisions in Section 1.23.

6. Multiple Parties in Delivery Chain Involving a Designated Interface. Seller and Buyer recognize that there may be multiple parties involved in the delivery and receipt of the Product at the Designated Interface or ADI to the extent that (1) Seller may be purchasing the Product from a succession of other sellers ("Other Sellers"), the first of which Other Sellers shall be causing the Product to be generated from a source ("Source Seller") and/or (2) Buyer may be selling the Product to a succession of other buyers ("Other Buyers"), the last of which Other Buyers shall be using the Product to serve its energy needs ("Sink Buyer"). Seller and Buyer further recognize that in certain Transactions neither Seller nor Buyer may originate the decision as to either (a) the original identification of the Designated Interface or ADI (which designation may be made by the Source Seller) or (b) the Timely Request for Firm Transmission or the purchase of other Available Transmission (which request may be made by the Sink Buyer). Accordingly, Seller and Buyer agree as follows:

A. If Seller is not the Source Seller, then Seller shall notify Buyer of the Designated Interface promptly after Seller is notified thereof by the Other Seller with whom Seller has a contractual relationship, but in no event may such designation of the Designated Interface be later than the prescheduling deadline pertaining to the Transaction between Buyer and Seller pursuant to Section 1.

B. If Buyer is not the Sink Buyer, then Buyer shall notify the Other Buyer with whom Buyer has a contractual relationship of the Designated Interface promptly after Seller notifies Buyer thereof, with the intent being that the party bearing actual responsibility to secure transmission shall have up to 30 minutes after receipt of the Designated Interface to submit its Timely Request for Firm Transmission.

C. Seller and Buyer each agree that any other communications or actions required to be given or made in connection with this “Into Product” (including without limitation, information relating to an ADI) shall be made or taken promptly after receipt of the relevant information from the Other Sellers and Other Buyers, as the case may be.

D. Seller and Buyer each agree that in certain Transactions time is of the essence and it may be desirable to provide necessary information to Other Sellers and Other Buyers in order to complete the scheduling and delivery of the Product. Accordingly, Seller and Buyer agree that each has the right, but not the obligation, to provide information at its own risk to Other Sellers and Other Buyers, as the case may be, in order to effect the prescheduling, scheduling and delivery of the Product

“Native Load” means the demand imposed on an electric utility or an entity by the requirements of retail customers located within a franchised service territory that the electric utility or entity has statutory obligation to serve.

“Non-Firm” means, with respect to a Transaction, that delivery or receipt of the Product may be interrupted for any reason or for no reason, without liability on the part of either Party.

“System Firm” means that the Product will be supplied from the owned or controlled generation or pre-existing purchased power assets of the system specified in the Transaction (the “System”) with non-firm transmission to and from the Delivery Point, unless a different Transmission Contingency is specified in a Transaction. Seller’s failure to deliver shall be excused: (i) by an event or circumstance which prevents Seller from performing its obligations, which event or circumstance was not anticipated as of the date the Transaction was agreed to, which is not within the reasonable control of, or the result of the negligence of, the Seller; (ii) by Buyer’s failure to perform; (iii) to the extent necessary to preserve the integrity of, or prevent or limit any instability on, the System; (iv) to the extent the System or the control area or reliability council within which the System operates declares an emergency condition, as determined in the system’s, or the control area’s, or reliability council’s reasonable judgment; or (v) by the interruption or curtailment of transmission to the Delivery Point or by the occurrence of any Transmission Contingency specified in a Transaction as excusing Seller’s performance. Buyer’s failure to receive shall be excused (i) by Force Majeure; (ii) by Seller’s failure to perform, or (iii) by the interruption or curtailment of transmission from the Delivery Point or by the occurrence of any Transmission Contingency specified in a Transaction as excusing Buyer’s performance. In any of such events, neither party shall be liable to the other for any damages, including any amounts determined pursuant to Article Four.

“Transmission Contingent” means, with respect to a Transaction, that the performance of either Seller or Buyer (as specified in the Transaction) shall be excused, and no damages shall be payable including any amounts determined pursuant to Article Four, if the transmission for such Transaction is unavailable or interrupted or curtailed for any reason, at any time, anywhere from the Seller’s proposed generating source to the Buyer’s proposed ultimate sink, regardless of whether transmission, if any, that such Party is attempting to secure and/or has purchased for the Product is firm or non-firm. If the transmission (whether firm or non-firm) that Seller or Buyer is attempting to secure is from source to sink is unavailable, this contingency excuses performance for the entire Transaction. If the transmission (whether firm or non-firm) that Seller

or Buyer has secured from source to sink is interrupted or curtailed for any reason, this contingency excuses performance for the duration of the interruption or curtailment notwithstanding the provisions of the definition of “Force Majeure” in Article 1.23 to the contrary.

“Unit Firm” means, with respect to a Transaction, that the Product subject to the Transaction is intended to be supplied from a generation asset or assets specified in the Transaction. Seller’s failure to deliver under a “Unit Firm” Transaction shall be excused: (i) if the specified generation asset(s) are unavailable as a result of a Forced Outage (as defined in the NERC Generating Unit Availability Data System (GADS) Forced Outage reporting guidelines) or (ii) by an event or circumstance that affects the specified generation asset(s) so as to prevent Seller from performing its obligations, which event or circumstance was not anticipated as of the date the Transaction was agreed to, and which is not within the reasonable control of, or the result of the negligence of, the Seller or (iii) by Buyer’s failure to perform. In any of such events, Seller shall not be liable to Buyer for any damages, including any amounts determined pursuant to Article Four.

**MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER**

This confirmation letter shall confirm the Transaction agreed to on _____, _____
between _____ (“Party A”) and _____ (“Party B”)
regarding the sale/purchase of the Product under the terms and conditions as follows:

Seller: _____

Buyer: _____

Product:

- ☐ Into _____, Seller’s Daily Choice
- ☐ Firm (LD)
- ☐ Firm (No Force Majeure)
- ☐ System Firm
(Specify System: _____)
- ☐ Unit Firm
(Specify Unit(s): _____)
- ☐ Other _____
- ☐ Transmission Contingency (If not marked, no transmission contingency)
- | | | |
|---|---------------------------------|--------------------------------|
| <input type="checkbox"/> FT-Contract Path Contingency | <input type="checkbox"/> Seller | <input type="checkbox"/> Buyer |
| <input type="checkbox"/> FT-Delivery Point Contingency | <input type="checkbox"/> Seller | <input type="checkbox"/> Buyer |
| <input type="checkbox"/> Transmission Contingent | <input type="checkbox"/> Seller | <input type="checkbox"/> Buyer |
| <input type="checkbox"/> Other transmission contingency
(Specify: _____) | | |

Contract Quantity: _____

Delivery Point: _____

Contract Price: _____

Energy Price: _____

Other Charges: _____

Confirmation Letter
Page 2

Delivery Period: _____
Special Conditions: _____
Scheduling: _____
Option Buyer: _____
Option Seller: _____
Type of Option: _____
Strike Price: _____
Premium: _____
Exercise Period: _____

This confirmation letter is being provided pursuant to and in accordance with the Master Power Purchase and Sale Agreement dated _____ (the "Master Agreement") between Party A and Party B, and constitutes part of and is subject to the terms and provisions of such Master Agreement. Terms used but not defined herein shall have the meanings ascribed to them in the Master Agreement.

[Party A]

[Party B]

Name: _____
Title: _____
Phone No: _____
Fax: _____

Name: _____
Title: _____
Phone No: _____
Fax: _____

PUBLIC APPENDIX I.4

Collateral Annex to the EEI Master Power Purchase and Sale Agreement

Collateral Annex

Version 1.0
2/21/02

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ALL RIGHTS RESERVED UNDER U.S. AND FOREIGN LAW, TREATIES AND CONVENTIONS. AUTOMATIC LICENSE – PERMISSION OF THE COPYRIGHT OWNERS IS GRANTED FOR REPRODUCTION BY DOWNLOADING FROM A COMPUTER AND PRINTING ELECTRONIC COPIES OF THE WORK. NO AUTHORIZED COPY MAY BE SOLD. WHEN USED AS A REFERENCE, ATTRIBUTION TO THE COPYRIGHT OWNERS IS REQUESTED.

COLLATERAL ANNEX

This Collateral Annex, together with the Paragraph 10 Elections, (the "Collateral Annex") supplements, forms a part of, and is subject to, the EEI Master Power Purchase and Sale Agreement, dated _____, including the Cover Sheet and any other annexes thereto between _____ ("Party A") and _____ ("Party B"). Capitalized terms used in this Collateral Annex but not defined herein shall have the meanings given such terms in the Agreement.

The obligations of each Party under the Agreement shall be secured in accordance with the provisions of this Collateral Annex, which, except as provided below, sets forth the exclusive conditions under which a Party will be required to Transfer Performance Assurance in the form of Cash, a Letter of Credit or other property as agreed to by the Parties, as well as the exclusive conditions under which a Party will release such Performance Assurance. This Collateral Annex supercedes and replaces in its entirety Sections 8.1(c), 8.2(c) and 8.3 of the Agreement and the defined terms used therein to the extent that such terms are otherwise defined and used in this Collateral Annex. In addition, to the extent that the Parties have specified on the Cover Sheet that Sections 8.1(b), 8.1(d), 8.2(b) or 8.2(d) of the Agreement are applicable, then the definition of Performance Assurance as used in this Collateral Annex shall apply and Paragraphs 2, 6, 7 and 9 of this Collateral Annex shall apply to any such Performance Assurance posted under such provisions, it being understood that nothing contained in this Collateral Annex shall change any election that the Parties have specified on the Cover Sheet with respect to Sections 8.1(b), 8.1(d), 8.2(b) or 8.2(d) of the Agreement, which provisions require a Party to Transfer Performance Assurance under certain circumstances not contemplated by this Collateral Annex.

Paragraph 1. Definitions.

For purposes of this Collateral Annex, the following terms have the respective definitions set forth below:

"Calculation Date" means any Local Business Day on which a Party chooses or is requested by the other Party to make the determinations referred to in Paragraphs 3, 4, 5 or 8 of this Collateral Annex.

"Cash" means U.S. dollars held by or on behalf of a Party as Performance Assurance hereunder.

"Collateral Account" shall have the meaning attributed to it in Paragraph 6(a)(ii)(B).

"Paragraph 10 Cover Sheet" means the Cover Sheet attached to this Collateral Annex setting forth certain elections governing this Collateral Annex.

"Collateral Requirement" shall have the meaning attributed to it in Paragraph 3(b).

"Collateral Threshold" means, with respect to a Party, the collateral threshold, if any, set forth in the Paragraph 10 Cover Sheet for a Party.

"Collateral Value" means (a) with respect to Cash, the face amount thereof; (b) with respect to Letters of Credit, the Valuation Percentage multiplied by the stated amount then available under the Letter of Credit to be unconditionally drawn by the beneficiary thereof; and (c) with respect to other forms of Performance Assurance, the Valuation Percentage multiplied by the fair market value on any Calculation Date of each item of Performance Assurance on deposit with, or held by or for the benefit of, a Party pursuant to this Collateral Annex as determined by such Party in a commercially reasonable manner.

"Credit Rating" means with respect to any entity, on any date of determination, the respective ratings then assigned to such entity's unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancement) by S&P, Moody's or other specified rating agency or agencies or if such entity does not have a rating for its unsecured, senior long-term debt or deposit obligations, then the rating assigned to such entity as its "corporate credit rating" by S&P.

"Credit Rating Event" shall have the meaning attributed to it in Paragraph 6(a)(iii).

"Current Mark-to-Market Value" of an outstanding Transaction, on any Calculation Date, means the amount, as calculated in good faith and in a commercially reasonable manner, which a Party to the Agreement would pay to (a negative Current Mark-to-Market Value) or receive from (a positive Current Mark-to-Market Value) the other Party as the Settlement Amount (calculated at the mid-point between the bid price and the offer price) for such Transaction.

"Custodian" shall have the meaning attributed to it in Paragraph 6(a)(i).

"Downgraded Party" shall have the meaning attributed to it in Paragraph 6(a)(i).

"Eligible Collateral" means, with respect to a Party, the Performance Assurance specified for such Party on the Paragraph 10 Cover Sheet.

"Exposure" of one Party ("Party X") to the other Party ("Party Y") for each Transaction means (without duplication) as of any Calculation Date the sum of the following:

- (a) the aggregate of all amounts in respect of such Transaction that are owed or otherwise accrued and payable (regardless of whether such amounts have been or could be invoiced) to Party X and that remain unpaid as of such Calculation Date minus the aggregate of all amounts in respect of such Transaction that are owed or otherwise accrued and payable (regardless of whether such amounts have been or

could be invoiced) to Party Y and that remain unpaid as of such Calculation Date; plus

(b) the Current Mark-to-Market Value of such Transaction to Party X.

"Exposure Amount" shall have the meaning set forth in Paragraph 3(a).

"Independent Amount" means, with respect to a Party, the amount, if any, set forth in the Paragraph 10 Cover Sheet for such Party (which amount, if designated, shall either be a Fixed Independent Amount, a Full Floating Independent Amount or a Partial Floating Independent Amount, in each case, as designated on the Paragraph 10 Cover Sheet), or if no amount is specified, zero, or with respect to either Party, an additional or reduced amount agreed to as such for that Party in respect of a Transaction.

"Interest Amount" means with respect to a Party and an Interest Period, the sum of the daily interest amounts for all days in such Interest Period; each daily interest amount to be determined by such Party as follows: (a) the amount of Cash held by such Party on that day; multiplied by (b) the Interest Rate for that day, divided by (c) 360.

"Interest Period" means the period from (and including) the last Local Business Day on which an Interest Amount was Transferred by a Party (or if no Interest Amount has yet been Transferred by such Party, the Local Business Day on which Cash was Transferred to such Party) to (but excluding) the Local Business Day on which the current Interest Amount is to be Transferred.

"Interest Rate" means, in respect of a Party holding Cash, the rate specified for such Party in the Paragraph 10 Cover Sheet.

"Letter of Credit" means an irrevocable, transferable, standby letter of credit, issued by a major U.S. commercial bank or the U.S. branch office of a foreign bank with, in either case, a Credit Rating of at least (a) "A-" by S&P and "A3" by Moody's, if such entity is rated by both S&P and Moody's or (b) "A-" by S&P or "A3" by Moody's, if such entity is rated by either S&P or Moody's but not both, substantially in the form set forth in Schedule 1 attached hereto, with such changes to the terms in that form as the issuing bank may require and as may be acceptable to the beneficiary thereof.

"Letter of Credit Default" means with respect to a Letter of Credit, the occurrence of any of the following events: (a) the issuer of such Letter of Credit shall fail to maintain a Credit Rating of at least (i) "A-" by S&P or "A3" by Moody's, if such issuer is rated by both S&P and Moody's, (ii) "A-" by S&P, if such issuer is rated only by S&P, or (iii) "A3" by Moody's, if such issuer is rated only by Moody's; (b) the issuer of the Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit; (c) the issuer of such Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit; (d) such Letter of Credit shall expire or terminate, or shall fail or cease to be in full force and effect at any time during the term of the Agreement, in any such case without replacement; or (e) the issuer of such Letter of Credit shall become Bankrupt; provided, however, that no Letter

of Credit Default shall occur or be continuing in any event with respect to a Letter of Credit after the time such Letter of Credit is required to be canceled or returned to a Party in accordance with the terms of this Collateral Annex.

"Local Business Day" means, a day on which commercial banks are open for business (a) in relation to any payment, in the place where the relevant account is located and (b) in relation to any notice or other communication, in the city specified in the address for notice provided by the recipient.

"Minimum Transfer Amount" means, with respect to a Party, the amount, if any, set forth in the Paragraph 10 Cover Sheet for such Party.

"Net Exposure" shall have the meaning attributed to it in Paragraph 3(a).

"Notification Time" means 11:00, New York time, on any Calculation Date or any different time specified in the Paragraph 10 Cover Sheet.

"Obligations" shall have the meaning attributed to it in Paragraph 2.

"Performance Assurance" means all Eligible Collateral, all other property acceptable to the Party to which it is Transferred, and all proceeds thereof, that has been Transferred to or received by a Party hereunder and not subsequently Transferred to the other Party pursuant to Paragraph 5 or otherwise received by the other Party. Any Interest Amount or portion thereof not Transferred pursuant to Paragraph 6(a)(iv) and any Cash received and held by a Party after drawing on any Letter of Credit will constitute Performance Assurance in the form of Cash, until all or any portion of such Cash is applied against Obligations owing to such Party pursuant to the provisions of this Collateral Annex. Any guaranty agreement executed by a Guarantor of a Party shall not constitute Performance Assurance hereunder.

"Pledging Party" shall have the meaning attributed to it in Paragraph 3(b).

"Qualified Institution" means a commercial bank or trust company organized under the laws of the United States or a political subdivision thereof, with (i) a Credit Rating of at least (a) "A-" by S&P and "A3" by Moody's, if such entity is rated by both S&P and Moody's or (b) "A-" by S&P or "A3" by Moody's, if such entity is rated by either S&P or Moody's but not both, and (ii) having a capital and surplus of at least \$1,000,000,000.

"Reference Market-maker" means a leading dealer in the relevant market selected by a Party determining its Exposure in good faith from among dealers of the highest credit standing which satisfy all the criteria that such Party applies generally at the time in deciding whether to offer or to make an extension of credit.

"Rounding Amount" means, with respect to a Party, the amount, if any, set forth in the Paragraph 10 Cover Sheet for such Party.

“Secured Party” shall have the meaning attributed to it in Paragraph 3(b).

“Transfer” means, with respect to any Performance Assurance or Interest Amount, and in accordance with the instructions of the Party entitled thereto:

- (a) in the case of Cash, payment or transfer by wire transfer into one or more bank accounts specified by the recipient;
- (b) in the case of Letters of Credit, delivery of the Letter of Credit or an amendment thereto to the recipient; and
- (c) in the case of any other type of Performance Assurance, delivery thereof as specified by the recipient.

“Valuation Percentage” means, with respect to any Performance Assurance designated as Eligible Collateral on the Paragraph 10 Cover Sheet, the Valuation Percentage specified for such Performance Assurance on the Paragraph 10 Cover Sheet.

Paragraph 2. Encumbrance; Grant of Security Interest.

As security for the prompt and complete payment of all amounts due or that may now or hereafter become due from a Party to the other Party and the performance by a Party of all covenants and obligations to be performed by it pursuant to this Collateral Annex, the Agreement, all outstanding Transactions and any other documents, instruments or agreements executed in connection therewith (collectively, the “Obligations”), each Party hereby pledges, assigns, conveys and transfers to the other Party, and hereby grants to the other Party a present and continuing security interest in and to, and a general first lien upon and right of set off against, all Performance Assurance which has been or may in the future be Transferred to, or received by, the other Party and/or its Custodian, and all dividends, interest, and other proceeds from time to time received, receivable or otherwise distributed in respect of, or in exchange for, any or all of the foregoing and each Party agrees to take such action as the other Party reasonably requests in order to perfect the other Party's continuing security interest in, and lien on (and right of setoff against), such Performance Assurance.

Paragraph 3. Calculations of Collateral Requirement.

(a) On any Calculation Date, the “Exposure Amount” for each Party shall be calculated for all Transactions for which there are any Obligations remaining unpaid or unperformed, by calculating each Party's Exposure to the other Party in respect of each such Transaction and determining the net aggregate sum of all Exposures for all Transactions for each Party. The Party having the greater Exposure Amount at any time (the “Secured Party”) shall be deemed to have a “Net Exposure” to the other Party equal to the Secured Party's Exposure Amount.

(b) The “Collateral Requirement” for a Party (the “Pledging Party”) means the Secured Party's Net Exposure minus the sum of:

- (1) the Pledging Party's Collateral Threshold; plus
- (2) the amount of Cash previously Transferred to the Secured Party, the amount of Cash held by the Secured Party as Performance Assurance as a result of drawing under any Letter of Credit, and any Interest Amount that has not yet been Transferred to the Pledging Party; plus
- (3) the Collateral Value of each Letter of Credit and any other form of Performance Assurance (other than Cash) maintained by the Pledging Party for the benefit of the Secured Party; provided, however, that, the Collateral Requirement of a Party will be deemed to be zero (0) whenever the calculation of such Party's Collateral Requirement yields a number less than zero (0).

Paragraph 4. Delivery of Performance Assurance.

On any Calculation Date on which (a) no Event of Default or Potential Event of Default has occurred and is continuing with respect to the Secured Party, (b) no Early Termination Date has occurred or been designated as a result of an Event of Default with respect to the Secured Party for which there exist any unsatisfied payment Obligations, and (c) the Pledging Party's Collateral Requirement equals or exceeds its Minimum Transfer Amount, then the Secured Party may demand that the Pledging Party Transfer to the Secured Party, and the Pledging Party shall, after receiving such notice from the Secured Party, Transfer, or cause to be Transferred to the Secured Party, Performance Assurance for the benefit of the Secured Party, having a Collateral Value at least equal to the Pledging Party's Collateral Requirement. The amount of Performance Assurance required to be Transferred hereunder shall be rounded up to the nearest integral multiple of the Rounding Amount. Unless otherwise agreed in writing by the Parties, (i) Performance Assurance demanded of a Pledging Party on or before the Notification Time on a Local Business Day shall be provided by the close of business on the next Local Business Day and (ii) Performance Assurance demanded of a Pledging Party after the Notification Time on a Local Business Day shall be provided by the close of business on the second Local Business Day thereafter. Any Letter of Credit or other type of Performance Assurance (other than Cash) shall be Transferred to such address as the Secured Party shall specify and any such demand made by the Secured Party pursuant to this Paragraph 4 shall specify account information for the account to which Performance Assurance in the form of Cash shall be Transferred.

Paragraph 5. Reduction and Substitution of Performance Assurance.

(a) On any Local Business Day (but no more frequently than weekly with respect to Letters of Credit and daily with respect to Cash), a Pledging Party may request a reduction in the amount of Performance Assurance previously provided by the Pledging Party for the benefit of the Secured Party, provided that, after giving effect to the requested reduction in Performance Assurance, (i) the Pledging Party shall in fact have a Collateral Requirement of zero; (ii) no Event of Default or Potential Event of Default with respect to the Pledging Party shall have occurred and be continuing; and (iii) no Early Termination Date has occurred or been designated as a result of an Event of

Default with respect to the Pledging Party for which there exist any unsatisfied payment Obligations. A permitted reduction in Performance Assurance may be effected by the Transfer of Cash to the Pledging Party or the reduction of the amount of an outstanding Letter of Credit previously issued for the benefit of the Secured Party. The amount of Performance Assurance required to be reduced hereunder shall be rounded down to the nearest integral multiple of the Rounding Amount. The Pledging Party shall have the right to specify the means of effecting the reduction in Performance Assurance. In all cases, the cost and expense of reducing Performance Assurance (including, but not limited to, the reasonable costs, expenses, and attorneys' fees of the Secured Party) shall be borne by the Pledging Party. Unless otherwise agreed in writing by the Parties, (i) if the Pledging Party's reduction demand is made on or before the Notification Time on a Business Day, then the Secured Party shall have one (1) Local Business Day to effect a permitted reduction in Performance Assurance and (ii) if the Pledging Party's reduction demand is made after the Notification Time on a Local Business Day, then the Secured Party shall have two (2) Local Business Days to effect a permitted reduction in Performance Assurance, in each case, if such reduction is to be effected by the return of Cash to the Pledging Party. If a permitted reduction in Performance Assurance is to be effected by a reduction in the amount of an outstanding Letter of Credit previously issued for the benefit of the Secured Party, the Secured Party shall promptly take such action as is reasonably necessary to effectuate such reduction.

(b) Except when (i) an Event of Default or Potential Event of Default with respect to the Pledging Party shall have occurred and be continuing or (ii) an Early Termination Date has occurred or been designated as a result of an Event of Default with respect to the Pledging Party for which there exist any unsatisfied payment Obligations, the Pledging Party may substitute Performance Assurance for other existing Performance Assurance of equal Collateral Value upon one (1) Local Business Day's written notice (provided such notice is made on or before the Notification Time, otherwise the notification period shall be two (2) Local Business Days) to the Secured Party; provided, however, that if such substitute Performance Assurance is of a type not otherwise approved by this Collateral Annex, then the Secured Party must consent to such substitution. Upon the Transfer to the Secured Party and/or its Custodian of the substitute Performance Assurance, the Secured Party and/or its Custodian shall Transfer the relevant replaced Performance Assurance to the Pledging Party within two (2) Local Business Days. Notwithstanding anything herein to the contrary, no such substitution shall be permitted unless (i) the substitute Performance Assurance is Transferred simultaneously or has been Transferred to the Secured Party and/or its Custodian prior to the release of the Performance Assurance to be returned to the Pledging Party and the security interest in, and general first lien upon, such substituted Performance Assurance granted pursuant hereto in favor of the Secured Party shall have been perfected as required by applicable law and shall constitute a first priority perfected security interest therein and general first lien thereon, and (ii) after giving effect to such substitution, the Collateral Value of such substitute Performance Assurance shall equal the greater of the Pledging Party's Collateral Requirement or the Pledging Party's Minimum Transfer Amount. Each substitution of Performance Assurance shall constitute a representation and warranty by the Pledging Party that the substituted Performance Assurance shall be

subject to and governed by the terms and conditions of this Collateral Annex, including without limitation the security interest in, general first lien on and right of offset against, such substituted Performance Assurance granted pursuant hereto in favor of the Secured Party pursuant to Paragraph 2.

(c) The Transfer of any Performance Assurance by the Secured Party and/or its Custodian in accordance with this Paragraph 5 shall be deemed a release by the Secured Party of its security interest, general first lien and right of offset granted pursuant to Paragraph 2 hereof only with respect to such returned Performance Assurance. In connection with each Transfer of any Performance Assurance pursuant to this Paragraph 5, the Pledging Party will, upon request of the Secured Party, execute a receipt showing the Performance Assurance Transferred to it.

Paragraph 6. Administration of Performance Assurance.

(a) Cash. Performance Assurance provided in the form of Cash to a Party that is the Secured Party shall be subject to the following provisions.

(i) If such Party is entitled to hold Cash, then it will be entitled to hold Cash or to appoint an agent which is a Qualified Institution (a "Custodian") to hold Cash for it provided that the conditions for holding Cash that are set forth on the Paragraph 10 Cover Sheet for such Party are satisfied. If such Party is not entitled to hold Cash, then the provisions of Paragraph 6(a)(ii) shall not apply with respect to such Party and Cash shall be held in a Qualified Institution in accordance with the provisions of Paragraph 6(a)(ii)(B). Upon notice by the Secured Party to the Pledging Party of the appointment of a Custodian, the Pledging Party's obligations to make any Transfer will be discharged by making the Transfer to that Custodian. The holding of Cash by a Custodian will be deemed to be the holding of Cash by the Secured Party for which the Custodian is acting. If the Secured Party or its Custodian fails to satisfy any conditions for holding Cash as set forth above or in the Paragraph 10 Cover Sheet or if the Secured Party is not entitled to hold Cash at any time, then the Secured Party will Transfer, or cause its Custodian to Transfer, the Cash to a Qualified Institution and the Cash shall be maintained in accordance with Paragraph 6(a)(ii)(B), with the Party not eligible to hold Cash being considered the "Downgraded Party" (as defined below). Except as set forth in Paragraph 6(c), the Secured Party will be liable for the acts or omissions of its Custodian to the same extent that the Secured Party would be liable hereunder for its own acts or omissions.

(ii) Use of Cash. Notwithstanding the provisions of applicable law, if no Event of Default has occurred and is continuing with respect to the Secured Party and no Early Termination Date has occurred or been designated as a result of an Event of Default with respect to the Secured Party for which there exist any unsatisfied payment Obligations, then the Secured Party shall have the right to sell, pledge, rehypothecate, assign, invest, use, commingle or otherwise use in its business any Cash that it holds as Performance Assurance hereunder, free from any claim or right of any nature whatsoever of the Pledging Party, including any equity or right of redemption by the Pledging Party; provided, however, that if a Party or its Custodian is not eligible to hold Cash pursuant to

Paragraph 6(a) (such Party shall be the "Downgraded Party" and the event that caused it or its Custodian to be ineligible to hold Cash shall be a "Credit Rating Event") then:

(A) the provisions of this Paragraph 6(a)(ii) will not apply with respect to the Downgraded Party; and

(B) the Downgraded Party shall be required to Transfer (or cause to be Transferred) not later than the close of business on the next Local Business Day following such Credit Rating Event all Cash in its possession or held on its behalf to a Qualified Institution approved by the non-Downgraded Party (which approval shall not be unreasonably withheld), to a segregated, safekeeping or custody account (the "Collateral Account") within such Qualified Institution with the title of the account indicating that the property contained therein is being held as Cash for the Downgraded Party. The Qualified Institution shall serve as Custodian with respect to the Cash in the Collateral Account, and shall hold such Cash in accordance with the terms of this Collateral Annex and for the security interest of the Downgraded Party and execute such account control agreements as are necessary or applicable to perfect the security interest of the Non-Downgraded Party therein pursuant to Section 9-314 of the Uniform Commercial Code or otherwise, and subject to such security interest, for the ownership and benefit of the non-Downgraded Party. The Qualified Institution holding the Cash will invest and reinvest or procure the investment and reinvestment of the Cash in accordance with the written instructions of the Pledging Party, subject to the approval of such instructions by the Downgraded Party (which approval shall not be unreasonably withheld), provided that the Qualified Institution shall not be required to so invest or reinvest or procure such investment or reinvestment if an Event of Default or Potential Event of Default with respect to the Pledging Party shall have occurred and be continuing. The Downgraded Party shall have no responsibility for any losses resulting from any investment or reinvestment effected in accordance with the Pledging Party's instructions.

(iii) Interest Payments on Cash. So long as no Event of Default or Potential Event of Default with respect to the Pledging Party has occurred and is continuing, and no Early Termination Date for which any unsatisfied payment Obligations of the Pledging Party exist has occurred or been designated as the result of an Event of Default with respect to the Pledging Party, and to the extent that an obligation to Transfer Performance Assurance would not be created or increased by the Transfer, in the event that the Secured Party or its Custodian is holding Cash, the Secured Party will Transfer (or caused to be Transferred) to the Pledging Party, in lieu of any interest or other amounts paid or deemed to have been paid with respect to such Cash (all of which may be retained by the Secured Party or its Custodian), the Interest Amount. The Pledging Party shall invoice the Secured Party monthly setting forth the calculation of the Interest Amount due, and the Secured Party shall make payment thereof by the later of (A) the third Local Business Day of the first month after the last month to which such invoice relates or (B) the third Local Business Day after the day on which such invoice is received. On or after the occurrence of a Potential Event of Default or an Event of Default with respect to the Pledging Party or an Early Termination Date as a result of an Event of Default with respect to the Pledging Party, the Secured Party or its Custodian shall retain any such Interest Amount as additional Performance Assurance hereunder

until the obligations of the Pledging Party under the Agreement have been satisfied in the case of an Early Termination Date or for so long as such Event of Default is continuing in the case of an Event of Default.

(b) Letters of Credit. Performance Assurance provided in the form of a Letter of Credit shall be subject to the following provisions.

(i) Unless otherwise agreed to in writing by the parties, each Letter of Credit shall be provided in accordance with Paragraph 4, and each Letter of Credit shall be maintained for the benefit of the Secured Party. The Pledging Party shall (A) renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit, (B) if the bank that issued an outstanding Letter of Credit has indicated its intent not to renew such Letter of Credit, provide either a substitute Letter of Credit or other Eligible Collateral, in each case at least twenty (20) Local Business Days prior to the expiration of the outstanding Letter of Credit, and (C) if a bank issuing a Letter of Credit shall fail to honor the Secured Party's properly documented request to draw on an outstanding Letter of Credit, provide for the benefit of the Secured Party either a substitute Letter of Credit that is issued by a bank acceptable to the Secured Party or other Eligible Collateral, in each case within one (1) Local Business Day after such refusal, provided that, as a result of the Pledging Party's failure to perform in accordance with (A), (B), or (C) above, the Pledging Party's Collateral Requirement would be greater than zero.

(ii) As one method of providing Performance Assurance, the Pledging Party may increase the amount of an outstanding Letter of Credit or establish one or more additional Letters of Credit.

(iii) Upon the occurrence of a Letter of Credit Default, the Pledging Party agrees to Transfer to the Secured Party either a substitute Letter of Credit or other Eligible Collateral, in each case on or before the first Local Business Day after the occurrence thereof (or the fifth (5th) Local Business Day after the occurrence thereof if only clause (a) under the definition of Letter of Credit Default applies).

(iv) (A) Upon or at any time after the occurrence and continuation of an Event of Default with respect to the Pledging Party, or (B) if an Early Termination Date has occurred or been designated as a result of an Event of Default with respect to the Pledging Party for which there exist any unsatisfied payment Obligations, then the Secured Party may draw on the entire, undrawn portion of any outstanding Letter of Credit upon submission to the bank issuing such Letter of Credit of one or more certificates specifying that such Event of Default or Early Termination Date has occurred and is continuing. Cash proceeds received from drawing upon the Letter of Credit shall be deemed Performance Assurance as security for the Pledging Party's obligations to the Secured Party and the Secured Party shall have the rights and remedies set forth in Paragraph 7 with respect to such cash proceeds. Notwithstanding the Secured Party's receipt of Cash proceeds of a drawing under the Letter of Credit, the Pledging Party shall remain liable (y) for any failure to Transfer sufficient Performance Assurance or (z) for

any amounts owing to the Secured Party and remaining unpaid after the application of the amounts so drawn by the Secured Party.

(v) In all cases, the costs and expenses (including but not limited to the reasonable costs, expenses, and attorneys' fees of the Secured Party) of establishing, renewing, substituting, canceling, and increasing the amount of a Letter of Credit shall be borne by the Pledging Party.

(c) Care of Performance Assurance. Except as otherwise provided in Paragraph 6(a)(iii) and beyond the exercise of reasonable care in the custody thereof, the Secured Party shall have no duty as to any Performance Assurance in its possession or control or in the possession or control of any Custodian or any income thereon or as to the preservation of rights against prior parties or any other rights pertaining thereto. The Secured Party shall be deemed to have exercised reasonable care in the custody and preservation of the Performance Assurance in its possession, and/or in the possession of its agent for safekeeping, if the Performance Assurance is accorded treatment substantially equal to that which it accords its own property, and shall not be liable or responsible for any loss or damage to any of the Performance Assurance, or for any diminution in the value thereof, by reason of the act or omission of any Custodian selected by the Secured Party in good faith except to the extent such loss or damage is the result of such agent's willful misconduct or negligence. Unless held by a Custodian, the Secured Party shall at all times retain possession or control of any Performance Assurance Transferred to it. The holding of Performance Assurance by a Custodian for the benefit of the Secured Party shall be deemed to be the holding and possession of such Performance Assurance by the Secured Party for the purpose of perfecting the security interest in the Performance Assurance. Except as otherwise provided in Paragraph 6(a)(ii), nothing in this Collateral Annex shall be construed as requiring the Secured Party to select a Custodian for the keeping of Performance Assurance for its benefit.

Paragraph 7. Exercise of Rights Against Performance Assurance.

(a) In the event that (i) an Event of Default with respect to the Pledging Party has occurred and is continuing or (ii) an Early Termination Date has occurred or been designated as a result of an Event of Default with respect to the Pledging Party, the Secured Party may exercise any one or more of the rights and remedies provided under the Agreement, in this Collateral Annex or as otherwise available under applicable law. Without limiting the foregoing, if at any time (i) an Event of Default with respect to the Pledging Party has occurred and is continuing, or (ii) an Early Termination Date occurs or is deemed to occur as a result of an Event of Default with respect to the Pledging Party, then the Secured Party may, in its sole discretion, exercise any one or more of the following rights and remedies:

- (i) all rights and remedies available to a secured party under the Uniform Commercial Code and any other applicable jurisdiction and other applicable laws with respect to the Performance Assurance held by or for the benefit of the Secured Party;

- (ii) the right to set off any Performance Assurance held by or for the benefit of the Secured Party against and in satisfaction of any amount payable by the Pledging Party in respect of any of its Obligations;
 - (iii) the right to draw on any outstanding Letter of Credit issued for its benefit; and/or
 - (iv) the right to liquidate any Performance Assurance held by or for the benefit of the Secured Party through one or more public or private sales or other dispositions with such notice, if any, as may be required by applicable law, free from any claim or right of any nature whatsoever of the Pledging Party, including any right of equity or redemption by the Pledging Party (with the Secured Party having the right to purchase any or all of the Performance Assurance to be sold) and to apply the proceeds from the liquidation of such Performance Assurance to and in satisfaction of any amount payable by the Pledging Party in respect of any of its Obligations in such order as the Secured Party may elect.
- (b) The Pledging Party hereby irrevocably constitutes and appoints the Secured Party and any officer or agent thereof, with full power of substitution, as the Pledging Party's true and lawful attorney-in-fact with full irrevocable power and authority to act in the name, place and stead of the Pledging Party or in the Secured Party's own name, from time to time in the Secured Party's discretion, for the purpose of taking any and all action and executing and delivering any and all documents or instruments which may be necessary or desirable to accomplish the purposes of Paragraph 7(a).
- (c) Secured Party shall be under no obligation to prioritize the order with respect to which it exercises any one or more rights and remedies available hereunder. The Pledging Party shall in all events remain liable to the Secured Party for any amount payable by the Pledging Party in respect of any of its Obligations remaining unpaid after any such liquidation, application and set off.
- (d) In addition to the provisions of Paragraph 7(a), if at any time (i) an Event of Default with respect to the Secured Party has occurred and is continuing or (ii) an Early Termination Date has occurred or been designated as a result of an Event of Default with respect to the Secured Party, then:
- (1) the Secured Party will be obligated immediately to Transfer all Performance Assurance (including any Letter of Credit) and the Interest Amount, if any, to the Pledging Party;
 - (2) the Pledging Party may do any one or more of the following: (x) exercise any of the rights and remedies of a pledgor with respect to the Performance Assurance, including any such rights and remedies under law then in effect; (y) to the extent that the Performance Assurance or the Interest Amount is not Transferred to the Pledging Party as required in (1) above, setoff amounts payable to the Secured Party against

the Performance Assurance (other than Letters of Credit) held by the Secured Party or to the extent its rights to setoff are not exercised, withhold payment of any remaining amounts payable by the Pledging Party, up to the value of any remaining Performance Assurance held by the Secured Party, until the Performance Assurance is Transferred to the Pledging Party; and (z) exercise rights and remedies available to the Pledging Party under the terms of any Letter of Credit; and

(3) the Secured Party shall be prohibited from drawing on any Letter of Credit that has been posted by the Pledging Party for its benefit.

Paragraph 8. Disputed Calculations

(a) If the Pledging Party disputes the amount of Performance Assurance requested by the Secured Party and such dispute relates to the amount of the Net Exposure claimed by the Secured Party, then the Pledging Party shall (i) notify the Secured Party of the existence and nature of the dispute not later than the Notification Time on the first Local Business Day following the date that the demand for Performance Assurance is made by the Secured Party pursuant to Paragraph 4, and (ii) provide Performance Assurance to or for the benefit of the Secured Party in an amount equal to the Pledging Party's own estimate, made in good faith and in a commercially reasonable manner, of the Pledging Party's Collateral Requirement in accordance with Paragraph 4. In all such cases, the Parties thereafter shall promptly consult with each other in order to reconcile the two conflicting amounts. If the Parties have not been able to resolve their dispute on or before the second Business Day following the date that the demand is made by the Secured Party, then the Secured Party's Net Exposure shall be recalculated by each Party requesting quotations from one (1) Reference Market-Maker within two (2) Business Days (taking the arithmetic average of those obtained to obtain the average Current Mark-to-Market Value; provided, that, if only one (1) quotation can be obtained, then that quotation shall be used) for the purpose of recalculating the Current Mark-to-Market Value of each Transaction in respect of which the Parties disagree as to the Current Mark-to-Market Value thereof, and the Secured Party shall inform the Pledging Party of the results of such recalculation (in reasonable detail). Performance Assurance shall thereupon be provided, returned, or reduced, if necessary, on the next Local Business Day in accordance with the results of such recalculation.

(b) If the Secured Party disputes the amount of Performance Assurance to be reduced by the Secured Party and such dispute relates to the amount of the Net Exposure claimed by the Secured Party, then the Secured Party shall (i) notify the Pledging Party of the existence and nature of the dispute not later than the Notification Time on the first Local Business Day following the date that the demand to reduce Performance Assurance is made by the Pledging Party pursuant to Paragraph 5(a), and (ii) effect the reduction of Performance Assurance to or for the benefit of the Pledging Party in an amount equal to the Secured Party's own estimate, made in good faith and in a commercially reasonable manner, of the Pledging Party's Collateral Requirement in accordance with Paragraph 5(a). In all such cases, the Parties thereafter shall promptly consult with each other in

order to reconcile the two conflicting amounts. If the Parties have not been able to resolve their dispute on or before the second Local Business Day following the date that the demand is made by the Pledging Party, then the Secured Party's Net Exposure shall be recalculated by each Party requesting quotations from one (1) Reference Market-Maker within two (2) Business Days (taking the arithmetic average of those obtained to obtain the average Current Mark-to-Market Value; provided, that, if only one (1) quotation can be obtained, then that quotation shall be used) for the purpose of recalculating the Current Mark-to-Market Value of each Transaction in respect of which the Parties disagree as to the Current Mark-to-Market Value thereof, and the Secured Party shall inform the Pledging Party of the results of such recalculation (in reasonable detail). Performance Assurance shall thereupon be provided, returned, or reduced, if necessary, on the next Local Business Day in accordance with the results of such recalculation.

Paragraph 9. Covenants; Representations and Warranties; Miscellaneous.

(a) The Pledging Party will execute and deliver to the Secured Party (and to the extent permitted by applicable law, the Pledging Party hereby authorizes the Secured Party to execute and deliver, in the name of the Pledging Party or otherwise) such financing statements, assignments and other documents and do such other things relating to the Performance Assurance and the security interest granted under this Collateral Annex, including any action the Secured Party may deem necessary or appropriate to perfect or maintain perfection of its security interest in the Performance Assurance, and the Pledging Party shall pay all costs relating to its Transfer of Performance Assurance and the maintenance and perfection of the security interest therein.

(b) On each day on which Performance Assurance is held by the Secured Party and/or its Custodian under the Agreement and this Collateral Annex, the Pledging Party hereby represents and warrants that:

(i) the Pledging Party has good title to and is the sole owner of such Performance Assurance, and the execution, delivery and performance of the covenants and agreements of this Collateral Annex, do not result in the creation or imposition of any lien or security interest upon any of its assets or properties, including, without limitation, the Performance Assurance, other than the security interests and liens created under the Agreement and this Collateral Annex;

(ii) upon the Transfer of Performance Assurance by the Pledging Party to the Secured Party and/or its Custodian, the Secured Party shall have a valid and perfected first priority continuing security interest therein, free of any liens, claims or encumbrances, except those liens, security interests, claims or encumbrances arising by operation of law that are given priority over a perfected security interest; and

(iii) it is not and will not become a party to or otherwise be bound by any agreement, other than the Agreement and this Collateral Annex, which restricts in any manner the rights of any present or future holder of any of the Performance Assurance with respect hereto.

(c) This Collateral Annex has been and is made solely for the benefit of the Parties and their permitted successors and assigns, and no other person, partnership, association, corporation or other entity shall acquire or have any right under or by virtue of this Collateral Annex.

(d) The Pledging Party shall pay on request and indemnify the Secured Party against any taxes (including without limitation, any applicable transfer taxes and stamp, registration or other documentary taxes), assessments, or charges that may become payable by reason of the security interests, general first lien and right of offset granted under this Collateral Annex or the execution, delivery, performance or enforcement of the Agreement and this Collateral Annex, as well as any penalties with respect thereto (including, without limitation costs and reasonable fees and disbursements of counsel). The Parties each agree to pay the other Party for all reasonable expenses (including without limitation, court costs and reasonable fees and disbursements of counsel) incurred by the other in connection with the enforcement of, or suing for or collecting any amounts payable by it under, the Agreement and this Collateral Annex.

(e) No failure or delay by either Party hereto in exercising any right, power, privilege, or remedy hereunder shall operate as a waiver thereof.

(f) The headings in this Collateral Annex are for convenience of reference only, and shall not affect the meaning or construction of any provision thereof.

SCHEDULE 1 to Collateral Annex

IRREVOCABLE STANDBY LETTER OF CREDIT FORMAT

DATE OF ISSUANCE: _____

[Address]

Re: Credit No. _____

We hereby establish our Irrevocable Transferable Standby Letter of Credit in your favor for the account of _____ (the "Account Party"), for the aggregate amount not exceeding _____ United States Dollars (\$ _____), available to you at sight upon demand at our counters at (Location) on or before the expiration hereof against presentation to us of one or more of the following statements, dated and signed by a representative of the beneficiary:

1. "An Event of Default (as defined in the Master Purchase and Sale Agreement dated as of _____ between beneficiary and Account Party, as the same may be amended (the "Master Agreement")) has occurred and is continuing with respect to Account Party under the Master Agreement and no Event of Default has occurred and is continuing with respect to the beneficiary of this Letter of Credit. Wherefore, the undersigned does hereby demand payment of the entire undrawn amount of the Letter of Credit"; or
2. "An Early Termination Date (as defined in the Master Purchase and Sale Agreement dated as of _____ between beneficiary and Account Party, as the same may be amended (the "Master Agreement")) has occurred and is continuing with respect to Account Party under the Master Agreement and no Event of Default has occurred and is continuing with respect to the beneficiary of this Letter of Credit. Wherefore, the undersigned does hereby demand payment of the entire undrawn amount of the Letter of Credit".

This Letter of Credit shall expire on _____.

The amount which may be drawn by you under this Letter of Credit shall be automatically reduced by the amount of any drawings paid through the Issuing Bank referencing this Letter of Credit No. _____. Partial drawings are permitted hereunder.

We hereby agree with you that documents drawn under and in compliance with the terms of this Letter of Credit shall be duly honored upon presentation as specified.

This Letter of Credit shall be governed by the Uniform Customs and Practice for Documentary Credits, 1993 Revision, International Chamber of Commerce Publication No. 500 (the "UCP"), except to the extent that the terms hereof are inconsistent with the provisions of the UCP, including but not limited to Articles 13(b) and 17 of the UCP, in which case the terms of this Letter of Credit shall govern.

With respect to Article 13(b) of the UCP, the Issuing Bank shall have a reasonable amount of time, not to exceed three (3) banking days following the date of its receipt of documents from the beneficiary, to examine the documents and determine whether to take up or refuse the documents and to inform the beneficiary accordingly.

In the event of an Act of God, riot, civil commotion, insurrection, war or any other cause beyond our control that interrupts our business (collectively, an "Interruption Event") and causes the place for presentation of this Letter of Credit to be closed for business on the last day for presentation, the expiry date of this Letter of Credit will be automatically extended without amendment to a date thirty (30) calendar days after the place for presentation reopens for business.

This Letter of Credit is transferable, and we hereby consent to such transfer, but otherwise may not be amended, changed or modified without the express written consent of the beneficiary, the Issuing Bank and the Account Party.

[BANK SIGNATURE]

PUBLIC APPENDIX I.5

Paragraph 10 to the Collateral Annex to the EEI Master Power Purchase and Sale Agreement

PARAGRAPH 10
to the
COLLATERAL ANNEX
to the
EEI MASTER POWER PURCHASE AND SALE AGREEMENT
Between ____ (“Party A”) and
Southern California Edison Company (“SCE” or “Party B”)

CREDIT ELECTIONS COVER SHEET

Paragraph 10. Elections and Variables

I. Collateral Threshold.

A. Party A Collateral Threshold.

- ☐ \$_____ (the “Threshold Amount”); provided, however, that the Collateral Threshold for Party A shall be zero upon the occurrence and during the continuance of an Event of Default or a Potential Event of Default with respect to Party A; and provided further that, in the event that, and on the date that, Party A cures the Potential Event of Default on or prior to the date that Party A is required to post Performance Assurance to Party B pursuant to a demand made by Party B pursuant to the provisions of the Collateral Annex on or after the occurrence of such Potential Event of Default, (i) the Collateral Threshold for Party A shall automatically increase from zero to the Threshold Amount and (ii) Party A shall be relieved of its obligation to post Performance Assurance pursuant to such demand.
- ☐ (a) The amount (the “Threshold Amount”) set forth below under the heading “Party A Collateral Threshold” opposite the Credit Rating for [Party A][Party A’s Guarantor] on the relevant date of determination, or (b) zero if on the relevant date of determination [Party A][its Guarantor] does not have a Credit Rating from the Ratings Agency specified below or an Event of Default or a Potential Event of Default with respect to Party A has occurred and is continuing; provided, however, in the event that, and on the date that, Party A cures the Potential Event of Default on or prior to the date that Party A is required to post Performance Assurance to Party B pursuant to a demand made by Party B pursuant to the provisions of the Collateral Annex on or after the occurrence of such Potential Event of Default, (i) the Collateral Threshold for Party A shall automatically increase from zero to the Threshold Amount and (ii) Party A shall be relieved of its obligation to post Performance Assurance pursuant to such demand.

Party A	
<u>Collateral Threshold</u>	<u>Credit Rating</u>
\$ _____	_____ (or above)
\$ _____	_____
\$ _____	_____
\$ _____	_____
\$ _____	Below _____

- ☒ The amount (“Threshold Amount”) which is the lowest of:
- (1) the amount set forth below under the heading “Party A Collateral Threshold” opposite the lower of the Credit Ratings for Party A or, if applicable, Party A’s Guarantor on the relevant date of determination. If Party A or, if applicable, its Guarantor does not have a Credit Rating on the relevant date of determination from at least one of the Ratings Agencies specified below, the Collateral Threshold shall be \$0 (zero);

- (2) 80% of the amount of the guaranty agreement, as amended from time to time, provided by Party A's Guarantor, if any, for the benefit of Party B; or
- (3) \$0 (zero) if an Event of Default or a Potential Event of Default with respect to Party A has occurred and is continuing:

Party A Collateral Threshold	Moody's Credit Rating	S&P Credit Rating
\$[To be negotiated]	Aa3 or above	AA- or above
\$[To be negotiated]	A1	A+
\$[To be negotiated]	A2	A
\$[To be negotiated]	A3	A-
\$[To be negotiated]	Baa1	BBB+
\$[To be negotiated]	Baa2	BBB
\$[To be negotiated]	Baa3	BBB-
\$ 0 (zero)	Ba1 or below	BB+ or below

- ☐ The amount of the Guaranty Agreement dated _____ from _____, as amended from time to time but in no event shall Party A's Collateral Threshold be greater than \$_____.
- ☐ Other – see attached threshold terms

B. Party B Collateral Threshold.

- ☐ \$_____ (the "Threshold Amount"); provided, however, that the Collateral Threshold for Party B shall be zero upon the occurrence and during the continuance of an Event of Default or a Potential Event of Default with respect to Party B; and provided further that, in the event that, and on the date that, Party B cures the Potential Event of Default on or prior to the date that Party B is required to post Performance Assurance to Party A pursuant to a demand made by Party A pursuant to the provisions of the Collateral Annex on or after the occurrence of such Potential Event of Default, (i) the Collateral Threshold for Party B shall automatically increase from zero to the Threshold Amount and (ii) Party B shall be relieved of its obligation to post Performance Assurance pursuant to such demand.
- ☐ (a) The amount (the "Threshold Amount") set forth below under the heading "Party B Collateral Threshold" opposite the Credit Rating for [Party B][Party B's Guarantor] on the relevant date of determination, or (b) zero if on the relevant date of determination [Party B][its Guarantor] does not have a Credit Rating from the Ratings Agency specified below or an Event of Default or a Potential Event of Default with respect to Party B has occurred and is continuing; provided, however, in the event that, and on the date that, Party B cures the Potential Event of Default on or prior to the date that Party B is required to post Performance Assurance to Party A pursuant to a demand made by Party A pursuant to the provisions of the Collateral Annex on or after the occurrence of such Potential Event of Default, (i) the Collateral Threshold for Party B shall automatically increase from zero to the Threshold Amount and (ii) Party B shall be relieved of its obligation to post Performance Assurance pursuant to such demand:

<u>Party B Collateral Threshold</u>	<u>Credit Rating</u>
\$ _____	_____ (or above)
\$ _____	_____
\$ _____	_____
\$ _____	_____
\$ _____	Below _____

- ☒ The amount (the “Threshold Amount”) which is the lower of:
- (1) the amount set forth below under the heading “Party B Collateral Threshold” opposite the lower of the Credit Ratings for Party B on the relevant date of determination. If Party B does not have a Credit Rating on the relevant date of determination from at least one of the Ratings Agencies specified below, the Collateral Threshold shall be \$0 (zero);
 - (2) \$0 (zero) if an Event of Default or a Potential Event of Default with respect to Party B has occurred and is continuing:

Party B Collateral Threshold	Moody’s Credit Rating	S&P Credit Rating
\$[To be negotiated]	Aa3 or above	AA- or above
\$[To be negotiated]	A1	A+
\$[To be negotiated]	A2	A
\$[To be negotiated]	A3	A-
\$[To be negotiated]	Baa1	BBB+
\$[To be negotiated]	Baa2	BBB
\$[To be negotiated]	Baa3	BBB-
\$[To be negotiated]	Ba1	BB+
\$ 0 (zero)	Ba2 or below	BB or below

- ☐ The amount of the Guaranty Agreement dated ____ from ____, as amended from time to time but in no event shall Party B’s Collateral Threshold be greater than \$ ____.
- ☐ Other – see attached threshold terms

II. Eligible Collateral and Valuation Percentage.

The following items will qualify as "Eligible Collateral" for the Party specified:

		<u>Party A</u>	<u>Party B</u>	<u>Valuation Percentage</u>
(A)	Cash	[X]	[X]	100%
(B)	Letters of Credit	[X]	[X]	100% unless either (i) a Letter of Credit Default shall have occurred and be continuing with respect to such Letter of Credit, or (ii) twenty (20) or fewer Business Days remain prior to the expiration of such Letter of Credit, in which cases the Valuation Percentage shall be zero (0%).

III. Independent Amount.

A. Party A Independent Amount.

- ☐ Party A shall have a Fixed Independent Amount of \$ _____. If the Fixed Independent Amount option is selected for Party A, then Party A (which shall be a Pledging Party with respect to the Fixed IA Performance Assurance) will be required to Transfer or cause to be Transferred to Party B (which shall be a Secured Party with respect to the Fixed IA Performance Assurance) Performance Assurance with a Collateral Value equal to the amount of such Independent Amount (the “Fixed IA Performance Assurance”). The Fixed IA Performance Assurance shall not be reduced for so long as there are any outstanding

obligations between the Parties as a result of the Agreement, and shall not be taken into account when calculating Party A's Collateral Requirement pursuant to the Collateral Annex. Except as expressly set forth above, the Fixed IA Performance Assurance shall be held and maintained in accordance with, and otherwise be subject to, Paragraphs 2, 5(b), 5(c), 6, 7 and 9 of the Collateral Annex.

- ☒ Party A shall have a Full Floating Independent Amount of (i) the amount specified in a Transaction or Confirmation, if any; and (ii) if Party A's Credit Rating is lower than BBB- by S&P or Baa3 by Moody's, the amount equal to ten percent (10%) of the market value of all outstanding Transactions (except those for which an alternative Independent Amount is specified in the Confirmation), adjusted by the netting of the market value of purchases with the market value of sales within the same billing cycles. If the Full Floating Independent Amount option is selected for Party A, then for purposes of calculating the Collateral Requirements pursuant to Paragraph 3 of the Collateral Annex, such Full Floating Independent Amount for Party A shall be added to the Exposure Amount for Party B and subtracted from the Exposure Amount for Party A. *[This option is applicable if Party A does not have investment grade Credit Ratings.]*
- ☐ Party A shall have a Partial Floating Independent Amount of \$_____. If the Partial Floating Independent Amount option is selected for Party A, then Party A will be required to Transfer or cause to be Transferred to Party B Performance Assurance with a Collateral Value equal to the amount of such Independent Amount (the "Partial Floating IA Performance Assurance") if at any time Party A otherwise has a Collateral Requirement (not taking into consideration the Partial Floating Independent Amount) pursuant to Paragraph 3 of the Collateral Annex. The Partial Floating IA Performance Assurance shall not be reduced so long as Party A has a Collateral Requirement (not taking into consideration the Partial Floating Independent Amount). The Partial Floating Independent Amount shall not be taken into account when calculating a Party's Collateral Requirements pursuant to the Collateral Annex. Except as expressly set forth above, the Partial Floating Independent Amount shall be held and maintained in accordance with, and otherwise be subject to, the Collateral Annex.
- ☐ Not Applicable.

B. Party B Independent Amount.

- ☐ Party B shall have a Fixed Independent Amount of \$_____. If the Fixed Independent Amount Option is selected for Party B, then Party B (which shall be a Pledging Party with respect to the Fixed IA Performance Assurance) will be required to Transfer or cause to be Transferred to Party A (which shall be a Secured Party with respect to the Fixed IA Performance Assurance) Performance Assurance with a Collateral Value equal to the amount of such Independent Amount (the "Fixed IA Performance Assurance"). The Fixed IA Performance Assurance shall not be reduced for so long as there are any outstanding obligations between the Parties as a result of the Agreement, and shall not be taken into account when calculating Party B's Collateral Requirement pursuant to the Collateral Annex. Except as expressly set forth above, the Fixed IA Performance Assurance shall be held and maintained in accordance with, and otherwise be subject to, Paragraphs 2, 5(b), 5(c), 6, 7 and 9 of the Collateral Annex.
- ☐ Party B shall have a Full Floating Independent Amount of \$_____. If the Full Floating Independent Amount Option is selected for Party B then for purposes of calculating Party B's Collateral Requirement pursuant to Paragraph 3 of the Collateral Annex, such Full Floating Independent Amount for Party B shall be added by Party A to its Exposure Amount for purposes of determining Net Exposure pursuant to Paragraph 3(a) of the Collateral Annex.
- ☐ Party B shall have a Partial Floating Independent Amount of \$_____. If the Partial Floating Independent Amount option is selected for Party B, then Party B will be

required to Transfer or cause to be Transferred to Party A Performance Assurance with a Collateral Value equal to the amount of such Independent Amount (the "Partial Floating IA Performance Assurance") if at any time Party B otherwise has a Collateral Requirement (not taking into consideration the Partial Floating Independent Amount) pursuant to Paragraph 3 of the Collateral Annex. The Partial Floating IA Performance Assurance shall not be reduced for so long as Party B has a Collateral Requirement (not taking into consideration the Partial Floating Independent Amount). The Partial Floating Independent Amount shall not be taken into account when calculating a Party's Collateral Requirements pursuant to the Collateral Annex. Except as expressly set forth above, the Partial Floating Independent Amount shall be held and maintained in accordance with, and otherwise be subject to, the Collateral Annex.

☒ Not Applicable.

IV. Minimum Transfer Amount.

A. **Party A Minimum Transfer Amount:** \$1.00

B. **Party B Minimum Transfer Amount:** \$1.00

V. Rounding Amount.

A. **Party A Rounding Amount:** \$100,000.00

B. **Party B Rounding Amount:** \$100,000.00

VI. Administration of Cash Collateral.

A. **Party A Eligibility to Hold Cash.**

☐ Party A shall not be entitled to hold Performance Assurance in the form of Cash. Performance Assurance in the form of Cash shall be held in a Qualified Institution in accordance with the provisions of Paragraph 6(a)(ii)(B) of the Collateral Annex. Party A shall pay to Party B in accordance with the terms of the Collateral Annex the amount of interest it receives from the Qualified Institution on any Performance Assurance in the form of Cash posted by Party B.

☒ Party A shall be entitled to hold Performance Assurance in the form of Cash provided that the following conditions are satisfied: (1) it is not a Defaulting Party; (2) Party A or, if applicable, Party A's Guarantor has a Credit Rating of at least BBB- from S&P or Baa3 from Moody's; provided, if Party A, or, if applicable, Party A's Guarantor has a Credit Rating of BBB- by S&P or Baa3 by Moody's, such entity, in each case, has a "Stable" outlook or above; and (3) Cash shall be held only in any jurisdiction within the United States. To the extent Party A is entitled to hold Cash, the Interest Rate payable to Party B on Cash shall be as selected below:

Party A Interest Rate.

☒ Federal Funds Effective Rate – for any given month, the average of the annual interest rates reported for all weekdays in the month opposite the caption "Federal funds (effective)" as set forth in the H.15 release, or any successor publication, published by the Board of Governors of the Federal Reserve System.

☐ Other - _____

To the extent that Party A is not entitled to hold Cash, Performance Assurance in the form of Cash shall be held in a Qualified Institution in accordance with the provisions of Paragraph 6(a)(ii)(B) of the Collateral Annex. Party A shall pay to Party B in accordance with the terms of the Collateral Annex the amount of interest it receives from the Qualified Institution on any Performance Assurance in the form of Cash posted by Party B.

B. Party B Eligibility to Hold Cash.

- ☐ Party B shall not be entitled to hold Performance Assurance in the form of Cash. Performance Assurance in the form of Cash shall be held in a Qualified Institution in accordance with the provisions of Paragraph 6(a)(ii)(B) of the Collateral Annex. Party B shall pay to Party A in accordance with the terms of the Collateral Annex the amount of interest it receives from the Qualified Institution on any Performance Assurance in the form of Cash posted by Party A.
- ☒ Party B shall be entitled to hold Performance Assurance in the form of Cash provided that the following conditions are satisfied: (1) it is not a Defaulting Party; (2) Party B has a Credit Rating of at least BBB- from S&P or Baa3 from Moody's; provided, if Party B has a Credit Rating of BBB- by S&P or Baa3 by Moody's, such entity, in each case, has a "Stable" outlook or above; and (3) Cash shall be held only in any jurisdiction within the United States. To the extent Party B is entitled to hold Cash, the Interest Rate payable to Party A on Cash shall be as selected below:

Party B Interest Rate.

- ☒ Federal Funds Effective Rate – for any given month, the average of the annual interest rates reported for all weekdays in the month opposite the caption "Federal funds (effective)" as set forth in the H.15 release, or any successor publication, published by the Board of Governors of the Federal Reserve System.
- ☐ Other - _____

To the extent that Party B is not entitled to hold Cash, Performance Assurance in the form of Cash shall be held in a Qualified Institution in accordance with the provisions of Paragraph 6(a)(ii)(B) of the Collateral Annex. Party B shall pay to Party A in accordance with the terms of the Collateral Annex the amount of interest it receives from the Qualified Institution on any Performance Assurance in the form of Cash posted by Party A.

VII. Notification Time.

10:00 a.m. Pacific Prevailing Time on a Local Business Day.

VIII. General.

With respect to the Collateral Threshold, Independent Amount, Minimum Transfer Amount and Rounding Amount, if no selection is made in this Cover Sheet with respect to a Party, then the applicable amount in each case for such Party shall be zero (0). In addition, with respect to the "Administration of Cash Collateral" section of this Paragraph 10, if no selection is made with respect to a Party, then such Party shall not be entitled to hold Performance Assurance in the form of Cash and such Cash, if any, shall be held in a Qualified Institution pursuant to Paragraph 6(a)(ii)(B) of the Collateral Annex. If a Party is eligible to hold Cash pursuant to a selection in this Paragraph 10 but no Interest Rate is selected, then the Interest Rate for such Party shall be the Federal Funds Effective Rate as defined in Section VI of this Paragraph 10.

IX. Other Changes. The following changes to the Collateral Annex shall be applicable.

A. Introduction. The first paragraph of the introduction is amended to read as follows:

“This Collateral Annex, together with the Paragraph 10 Cover Sheet, (the “Collateral Annex”) supplements, forms a part of, and is subject to the EEI Master Power Purchase and Sale Agreement dated as of [REDACTED] between [REDACTED] (“Party A”) and Southern California Edison Company (“Party B”), including the Cover Sheet and any other annexes thereto (as amended and supplemented from time to time, the “Agreement”). Capitalized terms used in this Collateral Annex but not defined herein shall have the meanings given such terms in the Agreement.”

B. Paragraph 1. Definitions. Amend Paragraph 1 as follows:

- i. The definition of “Credit Rating” is deleted from the Collateral Annex and all references shall have the meaning set forth in Section 1.12 of the Master Agreement as modified in the Cover Sheet.
- ii. The definition of “Credit Rating Event” is amended by replacing “6(a)(iii)” with “6(a)(ii)”.
- iii. The definition of “Downgraded Party” is amended by replacing “6(a)(i)” with “6(a)(ii)”.
- iv. The definition of “Interest Amount” is deleted in its entirety and replaced as follows:

“Interest Amount” means the product of the following three factors: (a) the dollar amount of Cash on which an interest payment is based; (b) Interest Rate; and (c) the number of days in the calculation period divided by 360.

- v. The definition of “Interest Period” is deleted in its entirety.
- vi. The definition of “Letter of Credit” is deleted from the Collateral Annex and all references shall have the meaning set forth in Section 1.27 of the Master Agreement as modified in the Cover Sheet.
- vii. The definition of “Letter of Credit Default” is amended by replacing the word “or” in the third line with the word “and”.
- viii. The definition of “Local Business Day” is amended by replacing the word “day” with “Business Day”.
- ix. The definition of “Notification Time” is amended by replacing “11:00, New York” with “10:00 a.m. Pacific Prevailing.”
- x. The definition of “Performance Assurance” is amended by replacing “6(a)(iv)” with “6(a)(iii)”.
- xi. The definition of “Qualified Institution” is amended to read as follows:

“Qualified Institution” means either (A) a commercial bank or financial institution (that is not an Affiliate or a Guarantor of any party to this Agreement) organized under the laws of the United States or a political subdivision thereof or (B) a U.S. branch office of a foreign bank, and, with respect to both entities identified in clause (A) and (B), having (i) Credit Ratings of at least “A-” by S&P or “A3” by Moody’s, and (ii) shareholder equity (determined in accordance with generally accepted accounting principles) of at least \$1,000,000,000.00 (ONE BILLION AND 00/100 DOLLARS).”

- xii. The definition of “Reference Market-maker” is deleted from the Collateral Annex and all references shall have the meaning set forth in Section 1.66 of the Master Agreement as modified in the Cover Sheet.
- xiii. The definition of “Secured Party” is amended by replacing “3(b)” with “3(a)”.

- C. **Paragraph 3. Calculations of Collateral Requirement.** In Paragraph 3(b)(2), is amended by replacing the comma after “Secured Party” with “and” and by deleting the phrase “, and any Interest Amount that has not yet been Transferred to the Pledging Party”.
- D. **Paragraph 4. Delivery of Performance Assurance.** In Paragraph 4, the penultimate sentence is amended by replacing the words “next Local Business Day” with “third Local Business Day thereafter” in clause (i), and by replacing the word “second” with fourth” in clause (ii).
- E. **Paragraph 5. Reduction and Substitution of Performance Assurance.** Amend Paragraph 5 as follows:
- i. Paragraph 5(a) is amended by deleting the parenthetical “(but no more frequently than weekly with respect to Letters of Credit and daily with respect to Cash)” from the first line.
 - ii. The sixth sentence of Paragraph 5(a) is amended by
 - 1. inserting the word “Local” before “Business Day,” and replacing the words “one (1) Local Business Day” with “three (3) Local Business Days” in clause (i) of that sentence.
 - 2. Replacing the words “two (2) Local Business Days” with “four (4) Local Business Days” in clause (ii) of that sentence.
- F. **Paragraph 6. Administration of Performance Assurance.** Amend Paragraph 6 as follows:
- i. Paragraph 6(a)(ii)(A) is amended by inserting “(other than subparagraph (B) below)” after “the provisions of this Paragraph 6(a)(ii)” in the first line thereof.
 - ii. Paragraph 6(a)(ii)(B) is amended by replacing “Non-Downgraded Party” with “Downgraded Party” in the second sentence of this paragraph.
 - iii. Paragraph 6(a)(iii) is deleted in its entirety and replaced as follows:

Interest Payments on Cash. So long as no Event of Default or Potential Event of Default with respect to the Pledging Party has occurred and is continuing, and no Early Termination Date for which any unsatisfied payment Obligations of the Pledging Party exist has occurred or been designated as the result of an Event of Default with respect to the Pledging Party, and to the extent that an obligation to Transfer Performance Assurance would not be created or increased by the Transfer, in the event that the Secured Party or its Custodian is holding Cash, the Secured Party will Transfer (or caused to be Transferred) to the Pledging Party, in lieu of any interest or other amounts paid or deemed to have been paid with respect to such Cash (all of which may be retained by the Secured Party or its Custodian), the Interest Amount, concurrently with the return of such Cash to the Pledging Party in accordance with the terms of the Agreement. On or after the occurrence of a Potential Event of Default or an Event of Default with respect to the Pledging Party or an Early Termination Date as a result of an Event of Default with respect to the Pledging Party, the Secured Party or its Custodian shall retain any such Interest Amount as additional Performance Assurance hereunder until the obligations of the Pledging Party under the Agreement have been satisfied in the case of an Early Termination Date or for so long as such Event of Default is continuing in the case of an Event of Default; provided that, any Interest Amount that is held by the Secured Party as an additional Performance Assurance amount shall not accrue interest in accordance with this paragraph.
 - iv. Paragraph 6(b)(iv) is amended by capitalizing the second instance of the word “cash” in the second sentence.

- v. Paragraph 6(b)(v) is amended by deleting the parenthetical phrase “(including but not limited to the reasonable costs, expenses, and attorneys’ fees of the Secured Party)”.
- G. Paragraph 7. Exercise of Rights Against Performance Assurance.** Paragraph 7(b) is amended by deleting it in its entirety and inserting the words “Intentionally Omitted.”.
- H. Paragraph 8. Disputed Calculations.** Amend Paragraph 8 as follows:
- i. Paragraph 8(a) is amended by adding in the third sentence the phrase “and, provided further, that if no quotations can be obtained, then the Secured Party’s original calculation shall be used” immediately after the words “then that quotation shall be used” and before the “)”.
 - ii. Paragraph 8(b) is amended by (1) adding the words “requested by the Pledging Party” between the word “Assurance” and the phrase “to be reduced”, and (2) adding in the third sentence the phrase “and, provided further that, if no quotations can be obtained, then the Secured Party’s original calculation shall be used” immediately after the words “then that quotation shall be used” and before the “)”.
- I. Paragraph 9. Covenants; Representations and Warranties; Miscellaneous.** Section 9(d) is amended by deleting (i) the parenthetical phrase at the end of the first sentence, which reads, “(including, without limitation costs and reasonable fees and disbursements of counsel)” and (ii) the entire second sentence.
- J. Schedule 1 to Collateral Annex:** Schedule 1 to the Collateral Annex is deleted in its entirety.

IN WITNESS WHEREOF, the Parties have caused this Paragraph 10 to the Collateral Annex to be duly executed as of the Effective Date of the Agreement.

Party A: _____

Party B: **SOUTHERN CALIFORNIA EDISON COMPANY**

By: _____

By: _____

Name: _____

Name: Colin E. Cushnie

Title: _____

Title: Vice President, Energy Procurement &
Management