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ATTACHMENT 1

SOUTHERN CALIFORNIA EDISON
An EDISON INTERNATIONAL® Company

Gary A. Stern, Ph.D.
Managing Director, State Regulatory Operations

November 30, 2020

ADVICE 4360-E
(U 338-E)

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
ENERGY DIVISION

SUBJECT: New Standard Offer Contract for Qualifying Facilities 20 Megawatts or Less Pursuant to Decision 20-05-006

PURPOSE

Pursuant to Ordering Paragraph (OP) 7 of the California Public Utilities Commission (Commission) Resolution E-5104, Southern California Edison Company (SCE) submits this advice letter to request approval for the attached modified Qualifying Facilities Standard Offer Contract (QF SOC).

BACKGROUND

On May 15, 2020, the Commission issued Decision 20-05-006 (Decision), which, among several requirements, ordered the investor-owned utilities (IOUs)[1] to create a new QF SOC for QFs of 20 megawatts (MW) or less. The Commission issued the Decision pursuant to the Order Instituting Rulemaking (OIR) initiating the proceeding. The OIR, Rulemaking (R.) 18-17-017, addresses the history of the Commission's implementation of the Public Utility Regulatory Policies Act (PURPA). The Commission noted in the OIR that the Rulemaking would consider adoption of a New QF SOC and price terms as specified in the Federal Energy Regulatory Commission's (FERC) PURPA regulations 18 C.F.R. § 292.304(d)(2).

[1] The three IOUs are: SCE, Pacific Gas and Electric Company (PG&E), and San Diego Gas & Electric Company (SDG&E).

P.O. Box 800 8631 Rush Street Rosemead, California 91770 (626) 302-9645 Fax (626) 302-6396

In addition to the main price provisions, the Commission detailed the Non-Price provisions for the New QF SOC. Pursuant to these directives, through modifications to the existing QF SOC, the three IOUs worked together to develop a New QF SOC that is substantially similar for all three IOUs. On June 15, 2020, PG&E, SCE, and SDG&E each submitted substantially similar New QF SOC in Tier 2 Advice Letters 5853-E, 4229-E, and 3555-E.

On November 20, 2020, the Commission issued Resolution E-5104, on these Advice Letters, ordering each of the IOUs, including SCE, to make modifications to the New QF SOC and to submit a Tier 1 advice letter with the revised New QF SOC within 7 days.[2] Pursuant to Resolution E-5104, SCE submits the attached revised New QF SOC with the modifications summarized below. All other provisions and exhibits are kept unchanged as originally submitted in SCE's Tier 2 advice letter 4229-E.

Article 9: Miscellaneous

See below for details summarizing the modifications made to Article 9 of SCE's new QF SOC.

Section	Section Name	Description of Modification	Justification
9.02 (j)	Additional Covenants by Seller	Removed Seller's covenant to Buyer that "Throughout the Term, Seller shall not cause any energy from the Transmission Provider's electrical system or the CAISO Controlled Grid to be stored by the Project or any hybrid or co-located storage facility associated with the Project."	To comply with Ordering Paragraph 6 of CPUC Resolution E-5104 (issued November 20,2020).
9.04 (i)	Indemnity	Removed indemnity that "Seller shall defend, save harmless, and indemnify Buyer against any costs or charges, including any CAISO Charges, associated with withdrawals of energy from the Transmission Provider's electrical system or the CAISO Controlled Grid to be stored by the Project or any hybrid or co-located storage facility associated with the Project.	To comply with Ordering Paragraph 6 of CPUC Resolution E-5104 (issued November 20,2020).

[2] Seven days from the issuance of Res. E-5104 falls on the Friday after Thanksgiving, which is a state holiday. Hence, SCE files this Tier 1 Advice Letter on the first business day after the Friday after Thanksgiving, Monday, November 30, 2020.

REQUEST FOR COMMISSION APPROVAL

SCE requests that Energy Division issue a letter approving this Advice Letter within 30 days of the filing of this Advice Letter, including adoption of the following findings of fact and conclusions of law:[3]

1. Approval of the New QF SOC;

2. Any other and further relief as the Commission finds just and reasonable.

APPENDICES

This advice letter contains appendices as listed below.

Appendix A: SCE's New QF SOC

Appendix B: SCE's New QF SOC (redline)

TIER DESIGNATION

Pursuant to the Decision, OP 7, SCE submits this advice letter with a Tier 1 designation.

EFFECTIVE DATE

This Advice Letter will become effective 10 days after the date of the letter from Energy Division providing Commission approval.

NOTICE

Anyone wishing to protest this Advice Letter may do so by letter via U.S. Mail, facsimile, or electronically, any of which must be received by the Energy Division and SCE no later than 20 days after the date of this Advice Letter. Protests should be mailed to:

CPUC, Energy Division
Attention: Tariff Unit
505 Van Ness Avenue
San Francisco, California 94102
E-mail: EDTariffUnit@cpuc.ca.gov

Copies should also be mailed to the attention of the Director, Energy Division, Room 4004 (same address as above). In addition, protests and all other correspondence regarding this Advice Letter should also be sent by letter and transmitted via facsimile or electronically to the attention of:

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[3] SCE requests that any summary disposition by Energy Division approving the content of this advice letter be deemed to have adopted the requested findings and conclusions.

Gary A. Stern, Ph.D.
Managing Director, State Regulatory Operations
Southern California Edison Company
8631 Rush Street
Rosemead, California 91770
Telephone (626) 302-9645
Facsimile: (626) 302-6396
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Tara S. Kaushik
Managing Director, Regulatory Relations
c/o Karyn Gansecki
Southern California Edison Company
601 Van Ness Avenue, Suite 2030
San Francisco, California 94102
Facsimile: (415) 929-5544
E-mail: Karyn.Gansecki@sce.comWith a copy to:

Eric B. Sezgen
Attorney
Southern California Edison Company
2244 Walnut Grove Avenue, 3rd Floor
Rosemead, California 91770
Phone: (626) 302-1054
E-mail: Eric.Sezgen@sce.com

There are no restrictions on who may file a protest, but the protest shall set forth specifically the grounds upon which it is based and shall be submitted expeditiously.

In accordance with Section 4 of GO 96-B, SCE is furnishing copies of this Advice Letter to the interested parties shown on the attached R.18-07-003, A.16-11-005, and GO 96-B service lists. Address change requests to the GO 96-B service list should be directed to AdviceTariffManager@sce.com or at (626) 302-4039. For changes to any other service list, please contact the Commission's Process Office at (415) 703-2021 or at Process_Office@cpuc.ca.gov.

Further, in accordance with Public Utilities Code Section 491, notice to the public is hereby given by filing and keeping the Advice Letter at SCE's corporate headquarters. To view other SCE advice letters filed with the Commission, log on to SCE's website at https://www.sce.com/wps/portal/home/regulatory/advice-letters.

For questions, please contact Raffi Minasian at (626) 302-8905 or by electronic mail at Raffi.Minasian@sce.com.

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Southern California Edison Company

/s/ Gary A. Stern, Ph.D.
Gary A. Stern, Ph.D.

GAS:es/rm:jm
Enclosures

R.18-07-017 ALJ/ML2/nd3

ADVICE LETTER SUMMARY

ENERGY UTILITY

MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No.: Southern California Edison Company (U 338-E)

Utility type:
- [x] ELC
- [ ] GAS
- [ ] WATER
- [ ] PLC
- [ ] HEAT

Contact Person: Darrah Morgan
Phone #: (626) 302-2086
E-mail: AdviceTariffManager@sce.com
E-mail Disposition Notice to: AdviceTariffManager@sce.com

EXPLANATION OF UTILITY TYPE
ELC = Electric GAS = Gas WATER = Water
PLC = Pipeline HEAT = Heat

(Date Submitted / Received Stamp by CPUC)

Advice Letter (AL) #: 4360-E

Tier Designation: 1

Subject of AL:

Keywords (choose from CPUC listing): Compliance, Qualifying Facility, Contracts

AL Type: [ ] Monthly [ ] Quarterly [ ] Annual [x] One-Time [ ] Other:

If AL submitted in compliance with a Commission order, indicate relevant Decision/Resolution #:
Resolution E-5104 and Decision 20-05-006

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL:

Summarize differences between the AL and the prior withdrawn or rejected AL:

Confidential treatment requested? [ ] Yes [x] No

If yes, specification of confidential information:
Confidential information will be made available to appropriate parties who execute a nondisclosure agreement. Name and contact information to request nondisclosure agreement/ access to confidential information:

Resolution required? [ ] Yes [x] No

Requested effective date: 11/30/20

No. of tariff sheets: -0-

Estimated system annual revenue effect (%):

Estimated system average rate effect (%):

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected: None

Service affected and changes proposed[1]:

Pending advice letters that revise the same tariff sheets: None

[1]Discuss in AL if more space is needed.

Clear Form

Protests and all other correspondence regarding this AL are due no later than 20 days after the date of this submittal, unless otherwise authorized by the Commission, and shall be sent to:

CPUC, Energy Division
Attention: Tariff Unit
505 Van Ness Avenue
San Francisco, CA 94102
Email: EDTariffUnit@cpuc.ca.gov

Name: Gary A. Stern, Ph.D.
Title: Managing Director, State Regulatory Operations
Utility Name: Southern California Edison Company
Address: 8631 Rush Street
City: Rosemead
State: California Zip: 91770
Telephone (xxx) xxx-xxxx: (626) 302-9645
Facsimile (xxx) xxx-xxxx: (626) 302-6396
Email: advicetariffmanager@sce.com

Name: Tara S. Kaushik c/o Karyn Gansecki
Title: Managing Director, Regulatory Relations
Utility Name: Southern California Edison Company
Address: 601 Van Ness Avenue, Suite 2030
City: San Francisco
State: California Zip: 94102
Telephone (xxx) xxx-xxxx:
Facsimile (xxx) xxx-xxxx: (415) 929-5544
Email: karyn.gansecki@sce.com

Clear Form

ENERGY Advice Letter Keywords

Affiliate	Direct Access	Preliminary Statement
Agreements	Disconnect Service	Procurement
Agriculture	ECAC / Energy Cost Adjustment	Qualifying Facility
Avoided Cost	EOR / Enhanced Oil Recovery	Rebates
Balancing Account	Energy Charge	Refunds
Baseline	Energy Efficiency	Reliability
Bilingual	Establish Service	Re-MAT/Bio-MAT
Billings	Expand Service Area	Revenue Allocation
Bioenergy	Forms	Rule 21
Brokerage Fees	Franchise Fee / User Tax	Rules
CARE	G.O. 131-D	Section 851
CPUC Reimbursement Fee	GRC / General Rate Case	Self Generation
Capacity	Hazardous Waste	Service Area Map
Cogeneration	Increase Rates	Service Outage
Compliance	Interruptible Service	Solar
Conditions of Service	Interutility Transportation	Standby Service
Connection	LIEE / Low-Income Energy Efficiency	Storage
Conservation	LIRA / Low-Income Ratepayer Assistance	Street Lights
Consolidate Tariffs	Late Payment Charge	Surcharges
Contracts	Line Extensions	Tariffs
Core	Memorandum Account	Taxes
Credit	Metered Energy Efficiency	Text Changes
Curtailable Service	Metering	Transformer
Customer Charge	Mobile Home Parks	Transition Cost
Customer Owned Generation	Name Change	Transmission Lines
Decrease Rates	Non-Core	Transportation Electrification
Demand Charge	Non-firm Service Contracts	Transportation Rates
Demand Side Fund	Nuclear	Undergrounding
Demand Side Management	Oil Pipelines	Voltage Discount
Demand Side Response	PBR / Performance Based Ratemaking	Wind Power
Deposits	Portfolio	Withdrawal of Service
Depreciation	Power Lines	

Clear Form

Appendix A

SCE's New QF SOC

POWER PURCHASE AND SALE AGREEMENT

between

SOUTHERN CALIFORNIA EDISON COMPANY

and

[SELLER'S NAME]

(ID #[Number])

Standard Contract for Qualifying Facilities with a Power Rating that is Less than or Equal to 20MW

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B. Generating Facility and Site Description

C. Procedure for Capacity Verification

[D. Monthly Contract Payment Calculation (As-Delivered Option)

D. Monthly Contract Payment Calculation (As-Executed Option)]

{Drafting Note: Delete the applicable Exhibit D, depending on Seller's election of as-delivered or as-executed pricing.}

E. Intentionally Omitted

F. New Qualifying Facilities Requirements

G. Scheduling Coordinator Services

H. Milestone Progress Reporting Form

I. Seller's Forecasting Requirements

J. CAISO Charges

K. Scheduling and Delivery Deviation Adjustments

L. Physical Trade Settlement Amount

M. SC Trade Settlement Amount

N. Notice List

O. Form of Guaranty Agreement

P. Form of Letter of Credit

Q. Seller's Milestone Schedule

R. Outage Scheduling Protocols and Outage Schedule Submittal Requirements

S. Intentionally Omitted

T-1. QF Efficiency Monitoring Program – Cogeneration Data Reporting Form

T-2. Fuel Use Standards – Small Power Production Facility Data Reporting Form

U. Economic Dispatch Down

POWER PURCHASE AND SALE AGREEMENT

between

SOUTHERN CALIFORNIA EDISON COMPANY

and

[SELLER'S NAME]

(ID# [Number])

PREAMBLE

This Power Purchase and Sale Agreement by and between **Southern California Edison Company**, a California corporation ("Buyer"), and **[Seller's name]**, a [Seller's form of business entity and state of registration] ("Seller"), together with the exhibits, attachments, and any applicable referenced collateral agreement or similar arrangement between the Parties that is expressly incorporated into this Agreement by the Parties (collectively, this "Agreement"), is made, effective and binding as of the latest signature date (the "Effective Date").

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

RECITALS

A. On May 15, 2020, the CPUC issued Decision ("D.") 20-05-06 (the "Decision") which, among other things, directed Buyer to develop a form of a standard contract and offer such contract to Qualifying Facilities of 20MW or less, as set forth in the Decision.

B. In response to the Decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company jointly developed a form of standard contract for Qualifying Facilities of 20MW or less (the "PURPA Contract").

C. This Agreement is based upon the PURPA Contract.

D. As set forth in the Decision, this Agreement does not change or interfere with, among other things, that certain form standard offer contract (the "QF PPA") adopted in accordance with the Qualifying Facility (QF) Settlement approved in D.10-12-035, as modified by D.15 06-028 (the "2010 Decision"), and in connection with the related Settlement Agreement, dated October 8, 2010 (the "Settlement Agreement") and effective on November 23, 2011 (the "Settlement Effective Date").

The Parties, intending to be legally bound, agree as follows:

ARTICLE ONE. SPECIAL CONDITIONS

1.01 Term.

(a) The term of this Agreement (the "Term") commences on, or within 120 days before [Date]; *provided, however,* that Seller may change the date set forth in this Section 1.01(a) by providing Notice to Buyer at least one year before such date;

(b) Seller shall provide Buyer with 30 days advance Notice confirming the exact date on which the Term commences, which date must be within the 120-day period set forth in Section 1.01(a) (the "Term Start Date");

(c) The Term Start Date must occur on the first day of a calendar month;

(d) The Term ends [Number of months] months after the Term Start Date (the "Term End Date"); and

(e) Notwithstanding the proviso set forth in Section 1.01(a), the Term Start Date must occur within 60 months of the Effective Date, subject to any extension of the Term Start Date as a result of a Force Majeure as to which Seller is the Claiming Party (subject to Section 5.03) and Section 4(c)(ii) of Exhibit F.

{Buyer Comment: Select this Section 1.01 if Seller is a New Qualifying Facility. Seller designates the Term Start Date and the Term End Date; provided, however, that the Term must be no more than 12 years.}

(a) Subject to any extension of the Term Start Date pursuant to Section 11.2.1 of the Settlement Agreement, the term of this Agreement (the "Term") commences on [Date] (the "Term Start Date");

(b) The Term ends [Number of months] months after the Term Start Date (the "Term End Date");

(c) The Term Start Date must occur on the first day of a calendar month;

(d) Subject to any extension of the Term Start Date pursuant to Section 11.2.1 of the Settlement Agreement, Seller may change the Term Start Date set forth in this Section 1.01 by providing Notice to Buyer at least one year before such Term Start Date; and

(e) Notwithstanding Section 1.01(d), the Term Start Date must occur within 24 months of the Effective Date, subject to any extension of the Term Start Date as a result of a Force Majeure as to which Seller is the Claiming Party (subject to Section 5.03).

{Buyer Comment: Select this Section 1.01 if Seller is an Existing Qualifying Facility. Seller designates the Term Start Date and the Term End Date; provided, however, that the Term must be no more than 7 years.}

1.02 Generating Facility.

(a) Name; Designation. The name of the Generating Facility is [Generating Facility name], which is [a New Qualifying Facility] [an Existing Qualifying Facility].

(b) Location; Site. The Generating Facility is located at [Generating Facility address], and is further described in Exhibit B.

(c) Qualifying Facility Type. As of the Effective Date, the Generating Facility is a ["small power production facility", as described in 18 CFR Part 292, Section 292.203(a)] ["topping-cycle cogeneration facility", as defined in 18 CFR Part 292, Section 292.202(d)] ["bottoming-cycle cogeneration facility", as defined in 18 CFR Part 292, Section 292.202(e)].

(d) Contract Capacity. "Contract Capacity" is [Number of MW] MW, which is subject to adjustment if the Generating Facility is a New Qualifying Facility or, as set forth in Section 5.2.4.4 of the Settlement Agreement, an Existing Qualifying Facility that is Operating in California but that has never entered into an agreement for the purchase and sale of electric energy with Buyer or any other California investor-owned utility, Section 3.13(a).

Notwithstanding anything to the contrary set forth in this Agreement, the Power Rating must not, from the Effective Date until the termination of this Agreement, exceed 20MW and Contract Capacity must not exceed the Power Rating.

{Buyer Comment: Further, the Contract Capacity cannot exceed PMax.}

(e) Net Qualifying Capacity. The "Project NQC" means Net Qualifying Capacity for the Generating Facility issued by the CAISO for compliance with Resource Adequacy Obligations, as stated in CAISO's Net Qualifying Capacity Report as updated from time to time. For Generating Facilities that are listed on CAISO's Net Qualifying Capacity Report, "Project NQC" shall be as specified therein for each calendar month in the applicable calendar year during the Term. For new Generating Facilities that are not listed in the CAISO's Net Qualifying Capacity Report, "Project NQC' shall be in accordance with the monthly technology factors listed in the CAISO's Net Qualifying Capacity Report for any calendar year in which the Generating Facility is not listed.

(f) Expected Term Year Energy Production. The Expected Term Year Energy Production for each Term Year equals [number of kWh] kWh. The Expected Term Year Energy Production may be revised based on changes in the Site Host

Load or the Site Host thermal requirements; *provided, however,* that such revision must be supported by a certification from a California-licensed professional engineer qualified to make a representation affirming that such revision is reasonable and based on changes in the Site Host Load or the Site Host thermal requirements. Such certification must include all data relied on to support the revised Expected Term Year Energy Production.

{Buyer Comment: Expected Term Year Energy Production cannot exceed Contract Capacity at 100% capacity factor applied over the Term Year.}

1.03 Delivery Point. The delivery point is the point of delivery of the Power Product to the CAISO Controlled Grid (the "Delivery Point"). Seller shall provide and convey to Buyer the Power Product from the Generating Facility at the Delivery Point. Title to and risk of loss related to the Power Product transfer from Seller to Buyer at the Delivery Point.

1.04 Capacity Performance Requirements. As further described in Exhibit D, the Generating Facility must provide the Project NQC as issued by the CAISO for compliance with Resource Adequacy Obligations to be eligible for any RA Capacity Payment.

1.05 Outages. Scheduling of all Outages shall be in accordance with Exhibit R. If the Generating Facility is on Outage, or Seller is otherwise unable to provide Capacity Attributes or Resource Adequacy Benefits to Buyer in any month, Buyer shall not have any obligation to provide any RA Substitute Capacity or minimize any Non-Availability Charges (or other CAISO Charges) for which the Seller will be solely responsible pursuant to Section 3.22.

1.06 Power Product Prices.

(a) Energy Payment. The price for calculation of the Energy Payment is set forth in Section 2 of Exhibit D.

(b) RA Capacity Payment. The price for calculation of the RA Capacity Payment is set forth in Section 3 of Exhibit D.

1.07 Requirements Applicable Solely to New Qualifying Facilities. If the Generating Facility is a New Qualifying Facility, the provisions of this Section 1.07 also apply to Seller.

(a) Credit and Collateral Requirements.

(i) Seller shall post and thereafter maintain the Development Security in accordance with Section 4(b) of Exhibit F.

(ii) Seller shall post and thereafter maintain the Performance Assurance, in accordance with Section 2(a) of Exhibit F, in an amount equal to[*Option 1*: 12 months of expected total revenues] [*Option 2*: five percent of the

expected total revenues] [*Option 3*: *[As proposed by Seller, subject to Buyer's acceptance in its sole discretion]*] of the Generating Facility under this Agreement (the "Performance Assurance Amount"). The initial Performance Assurance Amount equals $[___]. The Performance Assurance Amount will be revised upon any change to the Expected Term Year Energy Production.

{Buyer Comment: Select one of the two options for posting Performance Assurance listed above. Alternatively, Seller may propose a third option for posting Performance Assurance, which is subject to Buyer's acceptance in its sole discretion.}

(iii) Seller shall comply with all of the provisions of Exhibit F.

(b) Seller's Guarantor; Guaranty Amount; Guarantor Cross Default Amount.

(i) Seller's Guarantor, if any, is [Name of Guarantor]. Unless otherwise set forth in the immediately preceding sentence, the Guarantor set forth in this Section 1.07(b)(i) does not include any parent, subsidiary or Related Entity of Seller.

(ii) Guarantor shall guarantee $[Performance Assurance Amount x 1.25].

(iii) The Guarantor Cross Default Amount, if any, equals $[___].

{Buyer Comment: Guarantor Cross Default Amount must equal two percent of Guarantor's tangible net worth.}

1.08 Scheduling Coordinator Election. [Buyer][Seller][_____, an agent of Seller] is the Scheduling Coordinator under this Agreement.

**** End of Article One ****

ARTICLE TWO. SELLER'S SATISFACTION OF OBLIGATIONS BEFORE THE TERM START DATE; TERMINATION

2.01 Seller's Satisfaction of Obligations before the Term Start Date. Seller shall satisfy each of the following obligations before the Term Start Date:

(a) The Generating Facility is a Qualifying Facility, subject to Section 3.17(c);

(b) Seller enters into all agreements, obtains all Governmental Authority approvals and Permits, and takes all steps necessary for it to:

(i) Operate the Generating Facility;

(ii) Deliver electric energy from the Generating Facility to the Delivery Point; and

(iii) Schedule, or arrange for a third party or Buyer to Schedule, the electric energy produced by the Generating Facility with the CAISO;

(c) Seller's Scheduling Coordinator, as set forth in Section 1.08, is authorized by the CAISO to Schedule the electric energy produced by the Generating Facility with the CAISO;

(d) Seller satisfies its obligation to install the CAISO-Approved Meters as set forth in this Agreement;

(e) Seller furnishes to Buyer the insurance documents required under Section 9.11(c);

(f) Seller is in compliance with the CAISO Tariff as set forth in this Agreement;

(g) Seller enters into and fulfills all of its obligations under (i) the applicable interconnection agreements with the applicable Transmission Provider that are required to enable Parallel Operation of the Generating Facility with the interconnected electric system and the CAISO Controlled Grid, and (ii) any transmission, distribution or other service agreement that are required to enable Seller to transmit electric energy from the Generating Facility to the Delivery Point;

(h) Seller furnishes to Buyer all documents necessary to demonstrate that Seller has satisfied all of the CAISO agreement, interconnection agreement, and metering requirements and has enabled the Generating Facility to schedule with the CAISO for the Generating Facility's full unrestricted power output;

(i) Seller furnishes to Buyer the documents required under Section 3.05, which documentation demonstrates that the Generating Facility's interconnection has not changed since the Effective Date;

(j) If Buyer is Scheduling Coordinator and the Generating Facility is PIRP-eligible, then the Generating Facility is certified as a PIRP resource by the CAISO;

(k) If the Generating Facility is a New Qualifying Facility, Seller has posted with Buyer the Performance Assurance Amount in accordance with Section 1.07 and Exhibit F;

(l) Seller has tested all systems necessary for the Generating Facility to respond to dispatches pursuant to the Operational Characteristics and Project Specifications set forth in Exhibit B and CAISO dispatch instructions; and

(m) Seller furnishes to Buyer all documents necessary to demonstrate that the Operational Characteristics and Project Specifications are as set forth in Exhibit B, including without limitation the location of the Generating Facility, interconnection information, and PNode.

2.02 Termination Rights of the Parties.

(a) [Intentionally omitted.]

(b) [Intentionally omitted.]

(c) Event of Default. In the event of an uncured Event of Default or an Event of Default for which there is no opportunity for cure permitted in this Agreement, the Non-Defaulting Party may, at its option, terminate this Agreement as set forth in Section 6.02 and, if the Non-Defaulting Party is Buyer, then Seller (or any entity over which Seller or any owner or manager of Seller exercises control) agrees to waive any right it may have under PURPA, or otherwise, to enter into any new mandatory must-purchase contract (including (y) the Transition PPA, the QF PPA or the Optional As-Available PPA, as such terms are defined in the Settlement Agreement and (z) the PURPA Contract) to sell electric energy, capacity or Related Products from the Generating Facility to Buyer or any other California investor-owned utility for a period of 365 days following the date of such termination. For purposes of this Section 2.02(c), "control" means the direct or indirect ownership of 20% or more of the outstanding capital stock or other equity interests having ordinary voting power.

(d) End of Term. This Agreement automatically terminates at 11:59 p.m. PPT on the Term End Date.

2.03 Rights and Obligations Surviving Termination. The rights and obligations of the Parties that are intended to survive a termination of this Agreement are all such rights and obligations that this Agreement expressly provides survive such termination as well as those rights and obligations arising from either Parties' covenants, agreements,

representations or warranties applicable to, or to be performed, at, before or as a result of the termination of this Agreement, including:

(a) The obligation of Buyer to make all outstanding Monthly Contract Payments for periods before termination of this Agreement;

(b) The obligation of Buyer to invoice Seller for all payment adjustments for periods before termination of this Agreement, as set forth in Section 4.02;

(c) The obligation of Seller to pay any Buyer payment-adjustment invoice described in Section 4.03(b) for periods before termination of this Agreement within 30 days of Seller's receipt of such invoice;

(d) The obligation of Buyer or Seller, as applicable, to make payments, if any, after the termination of this Agreement;

(e) The obligation to make a Termination Payment, as set forth in Section 6.03;

(f) The indemnity obligations, as set forth in Section 9.04;

(g) The obligation of confidentiality, as set forth in Section 9.10;

(h) The right to pursue remedies under Section 6.02(c);

(i) The limitation of damages under Article Seven; and

(j) If the Generating Facility is a New Qualifying Facility, the obligation of Seller to post Performance Assurance in accordance with Section 1.07 and Exhibit F.

*** *End of Article Two* ***

ARTICLE THREE. SELLER'S OBLIGATIONS

3.01 Conveyance of the Product; Retained Benefits.

(a) Product. During the Term, Seller shall provide and convey the Product to Buyer in accordance with the terms of this Agreement, and Buyer shall have the exclusive right to the Product and all benefits derived therefrom, including the exclusive right to sell, convey, transfer, allocate, designate, award, report or otherwise provide any and all of the Product purchased under this Agreement and the right to all revenues generated from the use, sale or marketing of the Product.

(b) Green Attributes. Seller hereby provides and conveys all Green Attributes associated with the Related Products as part of the Product being delivered during the Term. Seller represents and warrants that Seller holds the rights to all Green Attributes associated with the Related Products, 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.

(c) Further Action by Seller. Seller shall, at its own cost, take all reasonable actions and execute all documents or instruments that are reasonable and necessary to effectuate the use of the Related Products for Buyer's benefit throughout the Term, which actions shall include:

(i) If the Related Products include Capacity Attributes or Resource Adequacy Benefits, cooperating with the Governmental Authority responsible for resource adequacy administration to certify the Generating Facility for resource adequacy purposes;

(ii) If the Related Products include Capacity Attributes or Resource Adequacy Benefits, testing the Generating Facility as may be required to certify the Generating Facility for resource adequacy purposes in accordance with the requirements set forth in the CAISO Tariff;

(iii) Committing to Buyer the Project NQC;

(iv) Complying with Applicable Laws regarding the registration, transfer or ownership of Green Attributes associated with the Related Products, including, if applicable to the Generating Facility, participation in WREGIS or other process recognized under Applicable Laws. With respect to WREGIS, at Buyer's option, Seller shall cause and allow Buyer to be the "Qualified Reporting Entity" and "Account Holder" (as these two terms are defined by WREGIS) for the Generating Facility;

(v) If the Related Products include Capacity Attributes or Resource Adequacy Benefits, complying with all CAISO Tariff requirements and CAISO dispatches applicable to a Resource Adequacy Resource; and

(vi) If Buyer is not the Scheduling Coordinator and the Related Products include Capacity Attributes or Resource Adequacy Benefits:

1) Timely submitting, or causing Seller's Scheduling Coordinator to timely submit, Supply Plans to identify and confirm the Project NQC sold to Buyer as a Resource Adequacy Resource; and

2) Causing the Generating Facility's Scheduling Coordinator to certify to Buyer, within 15 Business Days before the relevant deadline for any applicable RAR Showing or LAR Showing, that Buyer will be credited with the Project NQC for such RAR Showing or LAR Showing in the Generating Facility's Scheduling Coordinator's Supply Plan.

(d) Retained Benefits. Seller shall retain for its own use or disposition all Financial Incentives and all attributes, benefits and credits associated with the Generating Facility and the electrical or thermal energy produced therefrom, other than the Power Product and the Related Products. Subject to Seller's compliance with the applicable FERC rules and regulations, Seller may use, provide and convey any electric energy, capacity, Green Attributes, Capacity Attributes, Resource Adequacy Benefits, or any other product or benefit associated with the Generating Facility or the output thereof before the Term Start Date.

3.02 Resource Adequacy Rulings. During the Term, Seller shall grant, pledge, assign and otherwise commit to Buyer the generating capacity of the Generating Facility associated with the Related Products in order for Buyer to use in meeting its Resource Adequacy Obligations. Seller:

(a) Has not used, granted, pledged, assigned or otherwise committed any portion of the generating capacity of the Generating Facility associated with the Related Products to meet the Resource Adequacy Rulings of, or to confer Resource Adequacy Benefits on, any Person other than Buyer;

(b) Will not during the Term use, grant, pledge, assign or otherwise commit any portion of the generating capacity of the Generating Facility associated with the Related Products to meet the Resource Adequacy Rulings of, or to confer Resource Adequacy Benefits on, any Person other than Buyer; and

(c) If the Product includes Capacity Attributes or Resource Adequacy Benefits, shall take all reasonable actions (including complying with all current and future CAISO Tariff provisions and decisions of the CPUC or any other Governmental

Authority that address Resource Adequacy Rulings) and execute all documents that are reasonable and necessary to effect the use of the generating capacity of the Generating Facility associated with the Related Products for Buyer's sole benefit throughout the Term.

3.03 Site Control.

(a) Seller shall have Site Control as of the earlier of: (i) the Term Start Date, and (ii) any period before the Term Start Date to the extent necessary for Seller to perform its obligations under this Agreement and, in each case, will maintain Site Control throughout the Term. Seller shall provide Buyer with prompt Notice of any change in the status of Seller's Site Control.

(b) If the Generating Facility is a New Qualifying Facility, Seller shall provide Buyer with Notice of the status of its Site Control before commencing construction of the Generating Facility.

3.04 Permits. Seller shall obtain and maintain any and all Permits necessary for the Operation of the Generating Facility and to deliver electric energy from the Generating Facility to the Delivery Point.

3.05 Transmission.

(a) Interconnection Studies. Seller has provided Buyer with true and complete copies of all Interconnection Studies received by Seller for the Generating Facility after the date that is 24 months before the Effective Date.

(b) Seller's Responsibility. Seller shall obtain and maintain all distribution, transmission and interconnection rights and agreements (including all Governmental Authority approvals) required to enable Parallel Operation of the Generating Facility with the Transmission Provider's electric system and the applicable Control Area operator's electric grid and to effect Scheduling of the electric energy from the Generating Facility and transmission and delivery to the Delivery Point.

Except as otherwise provided in its interconnection agreement, the CAISO Tariff, or the Transmission Provider's tariff, rules or regulations, Seller shall pay all Transmission Provider charges or other charges directly caused by, associated with, or allocated to the following:

(i) All required Interconnection Studies, facilities upgrades, and agreements;

(ii) Interconnection of the Generating Facility to the Transmission Provider's electric system;

(iii) Any costs or fees associated with obtaining and maintaining a wholesale distribution access tariff agreement, if applicable; and

(iv) The transmission and delivery of electric energy from the Generating Facility to the Delivery Point.

(c) Acknowledgement. The Parties acknowledge and agree that any other agreement between Seller and Buyer, including any interconnection agreements, is separate and apart from this Agreement and does not modify or add to the Parties' obligations under this Agreement, and that any Party's breach under such other agreement does not excuse such Party's nonperformance under this Agreement, except to the extent that such breach constitutes a Force Majeure under this Agreement.

3.06 CAISO Relationship.

(a) Throughout the Term, Seller shall comply with all applicable provisions of the CAISO Tariff (including complying with any exemption obtained from the CAISO pursuant to the CAISO Tariff), as determined by the CAISO, including securing and maintaining in full force all of the CAISO agreements, certifications and approvals required in order for the Generating Facility to comply with the applicable provisions of the CAISO Tariff.

(b) [Intentionally omitted.]

(c) Buyer agrees that, upon the CAISO's request, Buyer shall provide to the CAISO any settlement quality meter data reasonably requested by the CAISO for settlement purposes.

3.07 Operational Characteristics; Generating Facility Modifications.

(a) Seller agrees to coordinate with the Scheduling Coordinator to ensure all information provided to the CAISO regarding the operational and technical constraints in the Master File for the Project is accurate and based on the Operational Characteristics and Project Specifications set forth in Exhibit B. Seller is responsible for the design, procurement and construction of all modifications necessary for the Generating Facility to meet the requirements of this Agreement and to comply with any restriction set forth in any Permit. Notwithstanding anything to the contrary set forth in this Agreement, during the Term, Seller shall not modify the Project in such a manner that would materially modify the underlying technology, Operational Characteristics, Project Specifications or Site Description as all are specified in Exhibit B. For any other Project modifications that do not materially modify the underlying technology, Operational Characteristics, Project Specifications or Site Description, Seller shall provide the applicable updated information to Buyer promptly and Seller and

Buyer will cooperate in good faith to agree upon and document any appropriate adjustments to Exhibit B to incorporate such updated information.

(b) Seller shall provide 30 days advance Notice to Buyer if there is any modification (other than a routine fluctuation in output or consumption) of the Generating Facility, the Site Host Load or operations related to the Site Host Load changing:

(i) Electric energy output by five percent of Expected Term Year Energy Production; or

(ii) The type of Primary Fuel consumed by the Generating Facility.

(c) [Intentionally omitted.]

(d) Seller acknowledges that nothing in this Section 3.07 excuses Seller from any requirements of the CAISO's interconnection process or any other applicable interconnection process.

(e) Seller is solely responsible for all costs associated with the implementation and regulation of Greenhouse Gas emissions with respect to Seller or the Generating Facility.

3.08 Metering.

(a) CAISO-Approved Meter. Seller shall, at its own cost, install, maintain and test all CAISO-Approved Meters pursuant to the CAISO Tariff or other applicable metering requirements.

(b) Check Meter. Buyer may, at its sole cost, furnish and install one Check Meter at the interconnection associated with the Generating Facility at a location designated by Seller or any other location mutually agreeable to the Parties. The Check Meter location must allow for the Check Meter to be interconnected with Buyer'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 through the Telemetry System set forth in Section 3.09; *provided, however,* that the transmission of such meter data through the Telemetry System is permitted by the CAISO.

Buyer shall test and recalibrate the Check Meter at least once every Term Year. The Check Meter will be locked or sealed, and the lock or seal shall be broken only by a Buyer representative. Seller has the right to be present whenever such lock or seal is broken. Buyer shall replace the Check Meter battery at least once every 36 months;

provided, however, if the Check Meter battery fails, Buyer shall promptly replace such battery.

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

(i) Buyer shall routinely compare the Check Meter data to the CAISO-Approved Meter data.

(ii) If the deviation between the CAISO-Approved Meter data (after adjusting (1) for all appropriate compensation and correction factors applied, if applicable, by the CAISO to the CAISO-Approved Meter, or (2) for any deviation that may result due to the CAISO-Approved Meter and Check Meter being physically situated in different locations) and the Check Meter data for any comparison is greater than 0.3%, Buyer shall provide Notice to Seller of such deviation and the Parties shall mutually arrange for a meter check or recertification of the Check Meter or CAISO-Approved Meter, as applicable.

(iii) Each Party shall bear its own costs for any meter check or recertification.

(iv) Testing procedures and standards for the Check Meter will be the same as for a comparable Buyer-owned meter. Seller shall have the right to have representatives present during all such tests.

(v) The Check Meter is intended to be used for back-up purposes in the event of a failure or other malfunction of the CAISO-Approved Meter. Data from the Check Meter will only be used to validate the CAISO-Approved Meter data and, in the event of a failure or other malfunction of the CAISO-Approved Meter, in place of the CAISO-Approved Meter until such time that the CAISO-Approved Meter is certified.

3.09 Telemetry System.

(a) Seller is responsible for designing, furnishing, installing, maintaining and testing a real time Telemetry System in accordance with the CAISO Tariff provisions applicable to the Generating Facility. Seller has the right to request any exemption from such requirements from the CAISO so long as it is obtained pursuant to the CAISO Tariff.

(b) [Intentionally omitted.]

(c) Buyer agrees that, upon the CAISO's request, Buyer shall provide to the CAISO any telemetry data reasonably requested by the CAISO for operating information purposes.

3.10 Provision of Information.

(a) Within 30 days after the Effective Date, Seller shall provide to Buyer (to the extent not already in Buyer's possession), subject to Section 9.10:

(i) All currently operative agreements with providers of distribution, transmission or interconnection services for the Generating Facility and all amendments thereto;

(ii) Any currently operative filings at FERC, including any rulings, orders or other pleadings or papers filed by FERC, concerning the qualification of the Generating Facility as a Qualifying Facility;

(iii) Any Permits reasonably requested by Buyer concerning the Operation or licensing of the Generating Facility, and any applications or filings requesting or pertaining to such Permits;

(iv) Each of the following engineering documents for the Generating Facility:

1) Site plan drawings;

2) Electrical one-line diagrams;

3) Control and data acquisition details and configuration documents;

4) Major electrical equipment specifications;

5) Process flow diagrams;

6) Piping and instrumentation diagrams;

7) General arrangement drawings; and

8) Aerial photographs of the Site, if any; and

(v) Instrument specifications, installation instructions, operating manuals, maintenance procedures and wiring diagrams for the CAISO-Approved Meter(s) and the Telemetry System reasonably requested by Buyer.

(b) If applicable and subject to Section 9.10, as soon as possible, Seller shall provide to Buyer (i) engineering specifications and design drawings for the Telemetry System, and (ii) annual test reports for the CAISO-Approved Meters.

(c) Subject to Section 9.10 and upon Buyer's request, Seller shall make commercially reasonable efforts to provide Buyer with all documentation necessary for Buyer to comply with any discovery or data request for information from the CPUC, CEC,

FERC, any court, administrative agency, legislative body or other tribunal, which commercially reasonable efforts shall, at a minimum, include providing Buyer with all documentation regarding the Operational Characteristics, Project Specifications, Site Description, or past performance of the Generating Facility if such documentation is requested by the CPUC.

3.11 Progress Reporting. If the Generating Facility is a New Qualifying Facility, Seller shall use commercially reasonable efforts to meet the Milestone Schedule and shall advise Buyer as soon as reasonably practicable of any problems or issues of which Seller is aware which may materially impact its ability to meet the Milestone Schedule.

No later than the 10th day of each month while Seller has not yet met one or more milestones set forth in the Milestone Schedule, and within five days of Buyer's request, Seller shall, in accordance with Exhibit H, prepare and provide to Buyer a written report detailing Seller's progress toward meeting the Milestone Schedule.

Seller shall include in such report a list of all letters, notices and Permits to or from any Governmental Authority (and the CAISO) applicable to Seller's effort to meet the Milestone Schedule, and shall provide any such documents as may be reasonably requested on Notice from Buyer.

3.12 Fuel Supply. Seller shall supply all fuel required for the Power Product and any testing or demonstration of the Generating Facility.

3.13 Capacity Verification; Resource Adequacy Demonstrations.

(a) If the Generating Facility is (i) a New Qualifying Facility, or (ii) as set forth in Section 5.2.4.4 of the Settlement Agreement, an Existing Qualifying Facility that is Operating in California but that has never entered into an agreement for the purchase and sale of electric energy with Buyer or any other California investor-owned utility, then Seller shall deliver to Buyer a certificate, including all supporting data, from a qualified independent California-licensed professional engineer (the "Contract Capacity Confirmation Certificate"), which Contract Capacity Confirmation Certificate must set forth the Contract Capacity as demonstrated to and determined by such engineer. To the extent the Contract Capacity set forth in Section 1.02(d) on the Effective Date and the Contract Capacity set forth in the Contract Capacity Confirmation Certificate or as otherwise demonstrated in accordance with Exhibit C are different, Section 1.02(d) will be adjusted to reflect the Contract Capacity set forth in the Contract Capacity Confirmation Certificate or as otherwise demonstrated in accordance with Exhibit C.

(b) [Intentionally omitted.]

(c) [Intentionally omitted.]

(d) If the Product includes Capacity Attributes or Resource Adequacy Benefits, Seller shall comply with any demonstration required for Resource Adequacy Rulings; provided, however, if such demonstrations could interfere with the operations of Seller, Seller shall be entitled to challenge such requirements with the CPUC or other relevant agency. Absent a ruling or other action granting a stay, compliance shall be required pending resolution of the challenge.

3.14 Operation and Record Keeping. Seller shall:

(a) Operate the Generating Facility in accordance with Prudent Electrical Practices;

(b) Comply with the Forecasting requirements, as set forth in Exhibit I;

(c) Use reasonable efforts to operate the Generating Facility so that the Power Product conforms with the Forecast provided in accordance with Exhibit I;

(d) Pay all CAISO Charges, as set forth in Exhibit J;

(e) Pay all SDD Adjustments for which Seller is responsible, as set forth in Exhibit K;

(f) Comply with the Outage scheduling procedures, as set forth in Exhibit R;

(g) Comply with the Outage Schedule Submittal Requirements, as set forth in Exhibit R;

(h) Use reasonable efforts to deliver the maximum possible quantity of Contract Capacity and associated electric energy during an Emergency Condition or a System Emergency;

(i) Use reasonable efforts to reschedule any outage that occurs during an Emergency Condition or a System Emergency;

(j) Keep a daily Operating log for the Generating Facility that includes information on availability, outages, circuit breaker trip operations requiring a manual reset, and any significant events related to the Operation of the Generating Facility, including:

(i) Real and reactive power production;

(ii) Changes in Operating status;

(iii) Protective apparatus operations; and

(iv) Any unusual conditions found during inspections;

(k) Keep all Operating records required of a Qualifying Facility by any applicable CPUC order as well as any additional information that may be required of a Qualifying Facility in order to demonstrate compliance with all applicable California utility industry standards which have been adopted by the CPUC;

(l) Provide copies of all daily Operating logs and Operating records to Buyer within 20 days of a Notice from Buyer;

(m) Provide, upon Buyer's request, all reports of actual or forecasted outages that Buyer may reasonably require for the purpose of enabling Buyer 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 facilities under contract to supply electric energy;

(n) Pay all Scheduling Fees, as set forth in Exhibit G;

(o) [Intentionally omitted]

(p) Register with the NERC as the Generating Facility's Generator Owner and Generator Operator if Seller is required to register by the NERC;

(q) Maintain documentation of all procedures applicable to the testing and maintenance of the Generating Facility protective devices as necessary to comply with the NERC Reliability Standards applicable to protection systems for electric generators if Seller is required to maintain such documentation by the NERC;

(r) If Buyer is Scheduling Coordinator, then at least 30 days before the Term End Date, or in accordance with Section 7(a) of Exhibit G, or as soon as practicable before the date of an early termination of this Agreement, (i) submit to the CAISO the name of the Scheduling Coordinator that will replace Buyer, and (ii) cause the Scheduling Coordinator that will replace Buyer to submit a letter to the CAISO accepting the designation as Seller's Scheduling Coordinator;

(s) If Buyer is not Scheduling Coordinator:

(i) Cause its Scheduling Coordinator to submit a Self-Schedule of Seller's Day-Ahead Forecast associated with the Generating Facility through the IFM; Seller shall then submit the quantity associated with the Self-Schedule of Seller's Day-Ahead Forecast as a Physical Trade to Buyer in the IFM, specifying the generating resource identifier and all other CAISO-required Inter-SC Trade attributes;

(ii) Cause its Scheduling Coordinator to submit the IFM Day-Ahead Schedule quantity associated with the Generating Facility as an Inter-SC Trade of

IFM Load Uplift Obligation to Buyer to be cleared through the Real-Time Market, specifying all CAISO-required Inter-SC Trade attributes; and

(iii) Make available to Buyer all CAISO settlement data with respect to the Generating Facility required to validate payments made under this Agreement; and

(t) Operate the Generating Facility so that the Power Product conforms with Buyer's instructions on Economic Dispatch Down and CAISO dispatch instructions.

3.15 Power Product Curtailments at Transmission Provider's or CAISO's Request.

(a) Seller shall promptly curtail the production of the Power Product upon receipt of a notice or instruction from the CAISO, which may be communicated by Buyer if Buyer is the Scheduling Coordinator. Such notice or instruction shall only be provided when the CAISO orders curtailment and the Scheduling Coordinator implements such curtailment in compliance with the CAISO Tariff or applicable orders to avoid or address a declared System Emergency.

(b) Seller shall promptly curtail the production of the Power Product upon receipt of a notice or instruction from the Transmission Provider, which may be communicated by Buyer if Buyer is the Scheduling Coordinator. Such notice or instruction shall only be provided when curtailment of the Power Product is required to comply with:

(i) A CAISO curtailment declared pursuant to Section 3.15(a) or Transmission Provider declared Emergency Condition, subject to the interconnection agreement between Seller and the Transmission Provider; or

(ii) Transmission Provider's maintenance requirements, subject to the interconnection agreement between Seller and the Transmission Provider.

(c) Notwithstanding the above, except as may be required in order to respond to any Emergency Condition or System Emergency, Buyer shall, consistent with FERC Order 888 and the interconnection agreement between Seller and the Transmission Provider and with the applicable provisions of the CAISO Tariff:

(i) Use reasonable good faith efforts to coordinate Transmission Provider's curtailment needs with Seller to the extent it can influence such needs; or

(ii) Request the Transmission Provider and CAISO limit the curtailment duration.

(d) If Seller has entered into a QF PGA or PGA with the CAISO, or an interconnection agreement, the terms of the applicable QF PGA or PGA and the

applicable interconnection agreement with respect to CAISO or Transmission Provider curtailments, shall govern the rights and obligations of Buyer and Seller to the extent any provision of this Section 3.15 is inconsistent with such applicable QF PGA or PGA, and interconnection agreement.

(e) In the event Seller interconnects with a Transmission Provider other than the CAISO, Seller shall adhere to any reliability curtailment order by such Transmission Provider pursuant to the applicable tariff provisions of such Transmission Provider.

3.16 Report of Lost Output. To the extent the conditions set forth in Sections 3.16(a) through (e) occur, Seller shall prepare and provide to Buyer, by the fifth Business Day following the end of each month during the Term, a lost output report. The lost output report shall identify the date, time, duration, cause and amount by which the Metered Amounts were reduced below the Seller's Energy Forecast due to:

(a) Outages;

(b) major overhauls;

(c) CAISO or Transmission Provider-ordered curtailments;

(d) Force Majeure; or

(e) Forced Outages.

3.17 FERC Qualifying Facility Status.

(a) If the Generating Facility is a "qualifying cogeneration facility", as contemplated in 18 CFR Section 292.205, then within 30 Business Days following the end of each year, and within 30 Business Days following the Term End Date, Seller shall provide to Buyer:

(i) Subject to Section 9.10, a completed copy of Buyer's "QF Efficiency Monitoring Program – Cogeneration Data Reporting Form", substantially in the form of Exhibit T-1, with calculations and verifiable supporting data, which demonstrates the compliance of the Generating Facility with qualifying cogeneration facility operating and efficiency standards set forth in 18 CFR Part 292, Section 292.205 "Criteria for Qualifying Cogeneration Facilities", for the applicable year; and

(ii) A copy of a FERC order waiving for the Generating Facility the applicable operating and efficiency standards for qualifying cogeneration facilities, as contemplated in 18 CFR Part 292, Section 292.205, "Criteria for Qualifying Cogeneration Facilities", for the applicable year, if Seller has received such order from the FERC.

(b) If Generating Facility is a "qualifying small power production facility", as contemplated in 18 CFR Section 292.203, then within 30 Business Days following the end of each year, and within 30 Business Days following the Term End Date, Seller shall provide to Buyer:

(i) Subject to Section 9.10, a completed copy of Buyer's "Fuel Use Standards – Small Power Producer Data Reporting Form", substantially in the form of Exhibit T-2, with calculations and verifiable supporting data, which demonstrates the compliance of the Generating Facility with qualifying small power production facility fuel use standards set forth in 18 CFR Part 292, Section 292.204, "Criteria for Qualifying Small Power Production Facilities", for the applicable year; and

(ii) A copy of a FERC order waiving for the Generating Facility, the applicable operating and fuel use standards for qualifying small power production facilities, as contemplated in 18 CFR Part 292, Section 292.204, "Criteria for Qualifying Small Power Production Facilities", for the applicable year, if Seller has received such order from the FERC.

(c) Seller shall take all necessary steps, including making or supporting timely filings with the FERC in order to maintain, or obtain a FERC waiver of, the Qualifying Facility status of the Generating Facility throughout the Term; *provided, however,* that this obligation does not apply to the extent Seller is unable to maintain Qualifying Facility status using commercially reasonable efforts because of (i) a change in PURPA or in regulations of the FERC implementing PURPA occurring after the Effective Date, or (ii) a change in Applicable Laws directly impacting the Qualifying Facility status of the Generating Facility occurring after the Effective Date.

The term "commercially reasonable efforts" in this Section 3.17(c) does not require Seller to pay or incur more than $20,000 multiplied by the number of Term Years in the Term.

3.18 Notice of Cessation or Termination of Service Agreements. Seller shall provide Notice to Buyer within one Business Day if there is a termination of, or cessation of service under, any agreement required in order for the Generating Facility to:

(a) Interconnect with the Transmission Provider's electric system;

(b) Transmit and deliver electric energy to the Delivery Point; or

(c) Own and operate any CAISO-Approved Meter.

3.19 Buyer's Access Rights.

(a) Upon providing at least one Business Day advance Notice to Seller, or as set forth in any Applicable Law (whichever is later), Buyer has the right to examine the Site, the Generating Facility and the Operating records, provided that Buyer follows Seller's safety policies and procedures that Seller has communicated to Buyer, does not interfere with or hinder Seller's Operations, and agrees to escorted access to the Generating Facility during regular business hours for:

(i) Any purpose reasonably connected with this Agreement;

(ii) The exercise of any and all rights of Buyer under Applicable Law or its tariff schedules and rules on file with the CPUC; or

(iii) The inspection and testing of any Check Meter, CAISO-Approved Meter or the Telemetry System.

(b) Seller shall promptly provide Buyer access to all meter data and data acquisition services both in real-time, and at later times, as Buyer may reasonably request. Seller shall promptly inform Buyer of meter quantity changes after becoming aware of, or being informed of, any such changes by the CAISO. Seller shall provide instructions to the CAISO granting authorizations or other documentation sufficient to provide Buyer with access to the CAISO-Approved Meter and to Seller's settlement data on MRI-S.

3.20 Seller Financial Information.

(a) The Parties shall determine, through consultation and review with their respective independent registered public accounting firms, whether Buyer is required to consolidate Seller's financial statements with Buyer'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 Buyer accounting treatment for this Agreement (the "Financial Consolidation Requirement").

(b) If the Parties mutually agree that the Financial Consolidation Requirement is applicable, then:

(i) Within 20 days following the end of each year (for each year that such treatment is required), Seller shall deliver to Buyer unaudited financial statements and related footnotes of Seller as of the end of the year. It is permissible for Seller to use accruals and prior month's estimates with true-up to actual activity, in subsequent periods, when preparing the unaudited financial statements.

The annual financial statements should include quarter-to-date and yearly information. Buyer shall provide to Seller a checklist before the end of each year listing the items which Buyer believes are material to Buyer 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 month's estimates with true-up to actual activity, in subsequent periods, when preparing the information on the checklist.

If audited financial statements are prepared for Seller for the year, Seller shall provide such statements to Buyer within five Business Days after those statements are issued.

(ii) Within 15 days following the end of each fiscal quarter (for each quarter that such treatment is required), Seller shall deliver to Buyer unaudited financial statements and related footnotes of Seller as of the end of the quarterly period.

The financial statements should include quarter-to-date and year-to-date information. Buyer shall provide to Seller a checklist before the end of each quarter listing items which Buyer believes are material to Buyer 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 month's estimates with true-up to actual activity, in subsequent periods, when preparing the unaudited financial statements.

(iii) If Seller regularly prepares its financial data in accordance GAAP, the International Financial Reporting Standards ("IFRS"), or any successor to either of the foregoing ("Successor"), the financial information provided to Buyer 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, IFRS or Successor, the information provided to Buyer 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 Parties mutually agree that the Financial Consolidation Requirement is applicable, then promptly upon Notice from Buyer, Seller shall allow Buyer's independent registered public accounting firm such access to Seller's records and personnel, as reasonably required so that Buyer'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 shall be borne by Buyer.

If Buyer's independent registered public accounting firm during or as a result of the audits permitted in this Section 3.20(c) determines a material weakness or significant deficiency, as defined by GAAP, IFRS or Successor, as applicable, exists in Seller's internal controls over financial reporting, then within 90 days of Seller's receipt of Notice from Buyer, 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) Buyer shall treat Seller's financial statements and other financial information provided under the terms of this Section 3.20 in strict confidence and, accordingly:

(i) Shall utilize such Seller financial information *only* for purposes of preparing, reviewing or certifying Buyer's or any Buyer parent company financial statements, for making regulatory, tax or other filings required by law in which Buyer 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 Buyer's or any Buyer parent company financial statements, to the SEC and the Public Company Accounting Oversight Board (United States) in connection with any oversight of Buyer's or any Buyer parent company financial statement and to those Persons who are entitled to receive confidential information as identified in Sections 9.10(a)(vi) and 9.10(a)(vii); and

(iii) Buyer shall ensure that its internal auditors and independent registered public accounting firm (1) treat as confidential any information disclosed to them by Buyer pursuant to this Section 3.20, (2) use such information solely for purposes of conducting the audits described in this Section 3.20, and (3) disclose any information received only to personnel responsible for conducting the audits.

(e) If the Parties mutually agree that the Financial Consolidation Requirement is applicable, then, within two Business Days following the occurrence of any event affecting Seller which Seller understands, during the Term, would require Buyer to disclose such event in a Form 8-K filing with the SEC, Seller shall provide to Buyer a Notice describing such event in sufficient detail to permit Buyer to make a Form 8-K filing.

(f) If, after consultation and review, the Parties do not agree on issues raised by Section 3.20(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 independent audit firm will render its recommendation on whether consolidation by Buyer is required. Based on this recommendation, Seller and Buyer shall mutually agree on how to resolve the dispute. If Seller fails to provide the data consistent with the mutually agreed upon resolution, Buyer may declare an Event of Default pursuant to Section 6.01. If Buyer's independent audit firm, after the review by the third independent audit firm still determines that Buyer must consolidate, then Seller shall provide the financial information necessary to permit consolidation to Buyer; *provided, however,* that in addition to the protections in Section 3.20(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.

3.21 NERC Electric System Reliability Standards. During the Term, for purposes of complying with any NERC Reliability Standards applicable to the Generating Facility, Seller (or an agent of Seller as agreed to by Buyer in its reasonable discretion) must, if required by the NERC, register with the NERC as the Generator Operator and the Generator Owner for the Generating Facility and must perform all Generator Operator Obligations and Generator Owner Obligations except those Generator Operator Obligations that Buyer, in its capacity as Scheduling Coordinator (if Seller has elected to have Buyer serve as its Scheduling Coordinator), is required to perform under this Agreement or under the CAISO Tariff.

Notwithstanding anything to the contrary set forth in this Section 3.21 and subject to the indemnity obligations set forth in Section 9.04(h), each Party acknowledges that such Party's performance of the Generator Operator Obligations or Generator Owner Obligations may not satisfy the requirements for self-certification or compliance with the NERC Reliability Standards, and that it shall be the sole responsibility of each Party to implement the processes and procedures required by the NERC, the WECC, the CAISO, or a Governmental Authority in order to comply with the NERC Reliability Standards.

If Buyer is Seller's Scheduling Coordinator, Buyer as Scheduling Coordinator will reasonably cooperate with Seller to the extent necessary to enable Seller to comply and for Seller to demonstrate Seller's compliance with the NERC Reliability Standards referenced above. Buyer's cooperation will include providing to Seller, or such other Person as Seller designates in writing, information in Buyer's possession that Buyer as Scheduling Coordinator has provided to the CAISO related to the Generating Facility or actions that Buyer has taken as Scheduling Coordinator related to Seller's compliance with the NERC Reliability Standards referenced above (e.g., Seller's notices and updates provided by Buyer to the CAISO). Buyer may, in its reasonable discretion (depending

upon the quantity of information requested by Seller and the timeframe established by Seller for compliance), comply with the requirement to provide information set forth in the previous sentence, by making such information available for inspection by Seller or by providing responsive summaries or excerpts of same, so long as the foregoing enables Seller to comply with the NERC Reliability Standards. In addition, Buyer may redact any information or data that is confidential to Buyer from materials or information to be supplied to Seller.

3.22 Allocation of Availability Incentive Payments and Non-Availability Charges. Seller agrees that 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. The Parties agree that any Availability Incentive Payments are for the benefit of the Seller and for Seller's account and that any Non-Availability Charges are the responsibility of the Seller and for Seller's account.

3.23 Seller's Reporting Requirements.

(a) Seller shall deliver to Buyer, on or before the 10th Business Day following receipt of a Notice from Buyer, such information that Buyer is required to report to any authorized Governmental Authority pursuant to the Settlement Agreement, or which Buyer otherwise requires in order to comply with the Settlement Agreement

(b) Seller shall deliver a Notice to Buyer upon the issuance of any update to CAISO's Net Qualifying Capacity Report, which Notice shall be delivered promptly after the issuance thereof and shall include disclosure of any discrepancies in the Net Qualifying Capacity Report relating to the Generating Facility. If there are any such discrepancies, Seller shall reasonably cooperate with the Scheduling Coordinator to seek the CAISO's correction thereof in the final Net Qualifying Capacity Report.

*** *End of Article Three* ***

ARTICLE FOUR. BUYER'S OBLIGATIONS

4.01 Obligation to Pay. For Seller's full compensation under this Agreement, during the Term, Buyer shall make a monthly payment (a "Monthly Contract Payment") calculated in accordance with Exhibit D.

4.02 Payment Adjustments.

(a) Buyer shall adjust each Monthly Contract Payment to Seller to account for:

(i) Scheduling Fees owed by Seller to Buyer, as set forth in Exhibit G;

(ii) Any SDD Adjustment, as set forth in Exhibit K;

(iii) Any Forecast penalties owed by Seller to Buyer, as set forth in Exhibit I;

(iv) Any CAISO Charges owed by Seller to Buyer, as set forth in Exhibit J;

(v) Any Physical Trade Settlement Amount owed by either Party to the other Party, as set forth in Exhibit L;

(vi) Any SC Trade Settlement Amount owed by either Party to the other Party, as set forth in Exhibit M;

(vii) Any payment adjustments (including adjustments to CAISO Charges) provided for under this Agreement;

(viii) Any Governmental Charges owed by either Party to the other Party, as set forth in Section 8.02;

(ix) The agreement of the Parties that Buyer shall have no liability to make any energy payments to Seller for any electricity deliveries, which total shall include all Deemed Delivered Energy calculated for the Term Year, from the Generating Facility in a Term Year that exceed 120% of Expected Term Year Energy Production; and

(x) Any Deemed Delivered Energy payments owed to Seller in accordance with Exhibit U.

(b) During the Term, any payment adjustments will be added to or deducted from a subsequent regular Monthly Contract Payment that is made by Buyer to Seller after the expiration of a 30-day period which begins upon Buyer's receipt of all of the information required in order to calculate payment adjustments.

(c) After the Term End Date, Buyer shall invoice Seller for all payment adjustments within 60 days of Buyer's receipt of all of the information required in order to calculate payment adjustments.

4.03 Payment Statement and Payment.

(a) No later than 30 days after the end of each calendar month (or the last day of the month if the month in which the payment statement is being sent is February), or the last Business Day of the month if such 30th day (or 28th or 29th day for February) is not a Business Day, Buyer shall mail to Seller:

(i) A table showing the hourly electric energy quantities for each of the following, in MWh per hour:

1) Seller's Energy Forecast;

2) Seller's Day-Ahead Forecast; and

3) Metered Amounts.

(ii) A statement showing:

1) TOD Period subtotals and overall monthly totals for each of the items set forth in Section 4.03(a)(i);

2) A calculation of the Monthly Contract Payment, as set forth in Exhibit D;

3) A calculation of any payment adjustments pursuant to Section 4.02; and

4) A calculation of the net dollar amount due for the month.

(iii) Buyer's payment to Seller, in accordance with Section 9.16, in the net dollar amount owed to Seller for the month; *provided, however,* in the event the statement shows a net amount owed to Buyer, Seller shall pay such amount within 20 days of the statement date or, if Seller fails to make such payment, Buyer may offset this amount from a subsequent Monthly Contract Payment.

(b) If Buyer determines that a calculation of Metered Amounts is incorrect as a result of an inaccurate meter reading or the correction of data by the CAISO in the CAISO's meter-data acquisition and processing system, Buyer shall promptly recompute the Metered Amounts quantity for the period of the inaccuracy based on an adjustment of such inaccurate meter reading in accordance with the CAISO Tariff.

Buyer shall then promptly recompute any payment or payment adjustment affected by such inaccuracy. Any amount due from Buyer to Seller or Seller to Buyer, as the case may be, shall be made as an adjustment to the next monthly statement that is calculated after Buyer's recomputation using corrected measurements.

If the recomputation results in a net amount owed to Buyer after offsetting any amounts owing to Seller as shown on the next monthly statement, any such additional amount still owing to Buyer shall be shown as an adjustment on Seller's monthly statement until such amount is fully collected by Buyer.

At Buyer's sole discretion, Buyer may offset any remaining amount owed to Buyer in any subsequent monthly payments to Seller or invoice Seller for such amount, in which case Seller must pay the amount owing to Buyer within 20 days of receipt of such invoice.

(c) Buyer reserves the right to deduct amounts that would otherwise be due to Seller under this Agreement from any amounts owing and unpaid by Seller to Buyer:

(i) Under this Agreement; or

(ii) Arising out of or related to any other agreement, tariff, obligation or liability pertaining to the Generating Facility.

(d) Except as provided in Section 4.03(b) and as otherwise provided in this Section 4.03(d), if, within 45 days of receipt of Buyer's payment statement, Seller does not give Notice to Buyer of an error, then Seller shall be deemed to have waived any error in Buyer's statement, computation and payment and the statement shall be conclusively deemed correct and complete; *provided, however,* that if an error is identified by Seller as a result of settlement, audit or other information provided to Seller by the CAISO after the expiration of the original 45-day period, Seller shall have an additional 90 days from the date on which it receives the information from the CAISO in which to give Notice to Buyer of the error identified by such settlement, audit or other information.

If Seller identifies an error in Seller's favor and Buyer agrees that the identified error occurred, Buyer shall reimburse Seller for the amount of the underpayment caused by the error and add the underpayment to the next monthly statement that is calculated.

If Seller identifies an error in Buyer's favor and Buyer agrees that the identified error occurred, Seller shall reimburse Buyer for the amount of overpayment caused by the error and Buyer shall apply the overpayment to the next monthly statement that is calculated.

If the recomputation results in a net amount still owing to Buyer after applying the overpayment, the next monthly statement shall show a net amount owing to Buyer.

At Buyer's sole discretion, Buyer may apply this net amount owing to Buyer in any subsequent monthly statements to Seller or invoice Seller for such amount, in which case Seller must pay the amount owing to Buyer within 20 days of receipt of such invoice.

The Parties shall negotiate to resolve any disputes regarding claimed errors in a statement. Any disputes which the Parties are unable to resolve through negotiation may be submitted for resolution through the dispute resolution procedure in Article Ten.

Nothing in this Section 4.03 limits a Party's rights under applicable tariffs, other agreements or Applicable Law.

4.04 [Intentionally Omitted.]

4.05 No Representation by Buyer. Any review by Buyer of the design, engineering, construction, testing and Operation of the Generating Facility is solely for Buyer's information. Buyer makes no representation that:

(a) It has reviewed the financial viability, technical feasibility, operational capability, or long-term reliability of the Generating Facility;

(b) The Generating Facility complies with any Applicable Laws; or

(c) The Generating Facility will be able to meet the terms of this Agreement.

Seller shall in no way represent to any third party that any such review by Buyer constitutes any such representation.

4.06 Buyer's Responsibility. Buyer shall obtain and maintain all distribution, transmission and interconnection rights and agreements (including all Governmental Authority approvals) required to enable transmission and delivery of electric energy at and after the Delivery Point.

4.07 Buyer's Reporting Requirements. Buyer shall deliver to Seller, on or before the 10th Business Day following receipt of a Notice from Seller, such information as Seller is required to report to any authorized Governmental Authority pursuant to the Settlement Agreement, or which Seller otherwise requires in order to comply with the Settlement Agreement.

**** End of Article Four ****

ARTICLE FIVE. FORCE MAJEURE

5.01 No Default for Force Majeure. Neither Party will 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.

5.02 Requirements Applicable to the Claiming Party. If a Party, because of Force Majeure, is rendered wholly or partly unable to perform its obligations when due under this Agreement, such Party (the "Claiming Party") shall be excused from whatever performance is affected by the Force Majeure to the extent so affected.

In order to be excused from its performance obligations under this Agreement by reason of Force Majeure:

(a) The Claiming Party, within 14 days after the initial occurrence of the claimed Force Majeure, must give 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 suspension of the Claiming Party's performance due to Force Majeure may not be greater in scope or longer in duration than is required by such Force Majeure.

In addition, the Claiming Party shall use diligent efforts to remedy its inability to perform.

This Article Five will 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. It is understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes shall be at the sole discretion of the Claiming Party.

When the Claiming Party is able to resume performance of its obligations under this Agreement, the Claiming Party shall give the other Party prompt Notice to that effect.

5.03 Termination. Either Party may terminate this Agreement on Notice, which Notice will be effective five Business Days after such Notice is provided, in the event of Force Majeure which materially interferes with such Party's ability to perform its obligations under this Agreement and which extends for more than 365 consecutive days, or for more than a total of 365 days in any consecutive 540-day period.

**** End of Article Five ****

ARTICLE SIX. EVENTS OF DEFAULT; REMEDIES

6.01 Events of Default. An "Event of Default" means the occurrence of any of the following:

(a) With respect to either Party (a "Defaulting Party"):

(i) Any representation or warranty made by such Party in this Agreement 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, if such misrepresentation or breach of warranty is not:

1) Remedied within 10 Business Days after Notice from the Non-Defaulting Party to the Defaulting Party; or

2) Capable of a cure, but the Non-Defaulting Party's damages resulting from such misrepresentation or breach of warranty can reasonably be ascertained and the payment of such damages is not made within 10 Business Days after a Notice of such damages is provided by the Non-Defaulting Party to the Defaulting Party;

(ii) Except for an obligation to make payment when due, the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default or to the extent excused by a Force Majeure) if such failure is not remedied within 30 days after Notice of such failure is provided by the Non-Defaulting Party to the Defaulting Party, which Notice sets forth in reasonable detail the nature of the Event of Default; *provided, however,* that if the Event of Default is not reasonably capable of being cured within such 30-day cure period, the Defaulting Party shall have such additional time (not to exceed 120 days) as is reasonably necessary to cure such Event of Default, so long as such Defaulting Party promptly commences and diligently pursues such cure;

(iii) A Party fails to make when due any payment (other than amounts disputed in accordance with the terms of this Agreement) due and owing under this Agreement and such failure is not cured within five Business Days after Notice is provided by the Non-Defaulting Party to the Defaulting Party of such failure;

(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 Person and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee Person fails to assume all the obligations

of such Party under this Agreement to which such Party or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party.

(b) With respect to Seller's Guarantor, if any (each event listed below to be deemed an Event of Default with respect to Seller):

(i) 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 if the representation or warranty is continuing in nature and the misrepresentation or breach of warranty is not remedied within 10 Business Days after Notice from Buyer to Seller;

(ii) The failure of a Guarantor to make any payment required or to perform any other material covenant or obligation in any Guaranty Agreement and such failure is not remedied within five Business Days after Notice from Buyer to Seller;

(iii) A Guarantor becomes Bankrupt and replacement credit support is not provided within five Business Days after Notice from Buyer to Seller;

(iv) The occurrence and continuation of a default, event of default or other similar condition or event under one or more agreements or instruments, individually or collectively, relating to indebtedness for borrowed money in the aggregate amount of not less than the Guarantor Cross Default Amount, which results in such indebtedness becoming immediately due and payable and replacement credit support is not provided within five Business Days after Notice from Buyer to Seller;

(v) The failure of any Guaranty Agreement to be in full force and effect for purposes of this Agreement (other than in accordance with its terms) and replacement credit support is not provided within five Business Days after Notice from Buyer to Seller;

(vi) The Guarantor repudiates, disaffirms, disclaims, or rejects, in whole or in part, or challenges the validity of any Guaranty Agreement given to Buyer and replacement credit support is not provided within five Business Days after Notice from Buyer to Seller; or

(vii) If the Guarantor fails to maintain a Credit Rating of at least (1) BBB- from S&P and Baa3 from Moody's, if Guarantor is rated by both ratings agencies or (2) BBB- by S&P or Baa3 by Moody's, if Guarantor is rated by only one of the ratings agency, and replacement credit support is not provided within 10 Business Days after Notice from Buyer to Seller.

(c) With respect to Seller:

(i) Seller does not own or lease the Generating Facility or otherwise have the authority over the Generating Facility as required in Section 3.03(a), and Seller has not cured a failure with respect to Section 3.03(a) within 30 days after providing Notice to Buyer in accordance with Section 3.03(a);

(ii) If Seller abandons the Generating Facility (for purposes of this Section 6.01(c)(ii), Seller will be deemed to have abandoned the Generating Facility if Seller has ceased work on the Generating Facility or the Generating Facility has ceased production and delivery of the Product for a consecutive thirty (30) day period and such cessation is not a result of an event of Force Majeure);

(iii) Except as provided for in Section 3.01(d), Seller (1) conveys, transfers, allocates, designates, awards, reports or otherwise provides any and all of the Product, or any portion thereof, or any benefits derived therefrom, to any party other than Buyer (except as may relate to transactions in the imbalance market arising from ordinary course deviations between Metered Amounts and electric energy Scheduled to Buyer), or (2) starts up or Operates the Generating Facility per instruction of or for the benefit of any third party (except in order to satisfy the Site Host Load, or as required by other Applicable Laws);

(iv) Seller intentionally or knowingly delivers, Schedules, or attempts to deliver or Schedule at the Delivery Point for sale under this Agreement electric energy that was not generated by the Generating Facility;

(v) Seller removes from the Site equipment upon which the Contract Capacity has been based, except for the purposes of replacement, refurbishment, repair, repowering or maintenance, and such equipment is not returned within five Business Days after Notice from Buyer to Seller;

(vi) [Intentionally omitted.]

(vii) Termination of, or cessation of service under, any agreement necessary for the interconnection of the Generating Facility to the Transmission Provider's electric system for transmission and delivery of the electric energy from the Generating Facility to the Delivery Point, or for metering the Metered Amounts, and such service is not reinstated, or alternative arrangements implemented, within 120 days after such termination or cessation;

(viii) Seller fails to make all reasonable efforts to increase the Power Output from the Generating Facility to the Contract Capacity during an Emergency Condition or a System Emergency;

(ix) Seller fails to provide any financial statements or other information within the timeframe and in the manner set forth in Sections 3.20(b)(i) and (ii), and such failure is not remedied within 10 days after Notice from Buyer to Seller;

(x) Seller fails to remediate any material weakness or significant deficiency in internal controls over financial reporting in accordance with Section 3.20(c), and such failure is not remedied within 90 days after Notice from Buyer to Seller;

(xi) Seller fails to take all reasonable actions and execute all documents or instruments that are reasonable and necessary to effectuate the use of the Related Products for Buyer's benefit throughout the Term as specified in Section 3.01, if such failure is not remedied within 10 days after Notice of such failure is provided by Buyer to Seller, which Notice sets forth in reasonable detail the nature of the Event of Default; *provided, however,* that if the Event of Default is not reasonably capable of being cured within such 10-day cure period, Seller shall have such additional time (not to exceed 120 days) as is reasonably necessary to cure such Event of Default, so long as Seller promptly commences and diligently pursues such cure;

(xii) [Intentionally omitted.]

(xiii) If any failure by Seller to comply with the CAISO Tariff materially impacts Buyer's ability to comply with this Agreement, the CAISO Tariff or other Applicable Laws, and such failure by Seller (including any consequences suffered by Buyer) is not cured within 30 days after Notice from Buyer to Seller;

(xiv) If Seller materially modifies or repowers the Generating Facility:

1) Without Buyer's prior written consent; or

2) For modifications or repowerings that have the effect of converting the Generating Facility to a New Qualifying Facility, Seller does not follow the terms of this Agreement with respect to all obligations and requirements applicable to New Qualifying Facilities;

(xv) If Seller fails to satisfy all of the conditions set forth in Section 2.01 before the Term Start Date, and such failure is not cured within 30 Business Days after Notice from Buyer to Seller; or

(xvi) If the Generating Facility is a New Qualifying Facility:

1) Seller fails to satisfy the creditworthiness and collateral requirements in Sections 2 and 3 of Exhibit F and such failure is not cured within five Business Days after Notice is provided by Buyer to Seller;

2) The stock or equity ownership interest in Seller has been pledged or assigned as collateral or otherwise to any party other than Lender without Buyer's consent, which consent may not be unreasonably withheld, delayed or conditioned;

3) Seller fails to post and maintain the Development Security pursuant to Section 4(b) of Exhibit F and such failure is not cured within five Business Days after Notice of such failure from Buyer to Seller;

4) Seller fails to post and maintain the Performance Assurance Amount pursuant to Section 2 of Exhibit F and such failure is not cured within five Business Days after Notice of such failure from Buyer to Seller;

5) The occurrence and continuation of a default, event of default or other similar condition or event under any loan agreement with any Lender, or any other related agreement or instrument with or for the benefit of any Lender, which results in any indebtedness under those agreements or instruments becoming immediately due and payable; *provided, however,* if Seller, Buyer and a Lender have entered into a Collateral Assignment Agreement with substantially the provisions set forth in Section 9.06, and the terms of such Collateral Assignment Agreement conflict or are inconsistent with this Section 6.01(c)(xvi)(5), the provisions of the Collateral Assignment Agreement control;

6) The occurrence and continuation of a default, event of default or other similar condition or event under any power purchase agreement between Buyer and Seller (other than this Agreement) or under any other related agreement or instrument with or for the benefit of Buyer; or

7) Subject to Section 3.17(c), the Generating Facility (A) is not designed and constructed so as to satisfy all of the requirements applicable to a Qualifying Facility, or (B) fails to maintain its status as a Qualifying Facility during the Term; or

(xvii) If the Generating Facility is an Existing Qualifying Facility, then, at any time on or, subject to Section 3.17(c), after the Effective Date, the Generating Facility fails to maintain its status as a Qualifying Facility.

6.02 Early Termination. If an Event of Default has occurred, there will be no opportunity for cure except as specified in Section 6.01 or pursuant to a Collateral Assignment Agreement agreed upon by Buyer, Seller and Lender in accordance with Section 9.06. The Party taking the default (the "Non-Defaulting Party") will have the right to:

(a) Designate by Notice to the Defaulting Party a date, no later than 20 days after the Notice is effective, for the early termination of this Agreement (an "Early Termination Date");

(b) Immediately suspend performance under this Agreement; and

(c) 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.

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 sum of all amounts owed by the Defaulting Party under this Agreement less any amounts owed by the Non-Defaulting Party to the Defaulting Party under this Agreement, including any Forward Settlement Amount (the "Termination Payment"). The Notice shall 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 Generating Facility is a New Qualifying Facility, no Forward Settlement Amount is assessed for any Termination Payment due to Buyer as the Non-Defaulting Party by Seller as the Defaulting Party if this Agreement is terminated before the Term Start Date.

If the Termination Payment is positive, the Defaulting Party shall pay such amount to the Non-Defaulting Party within 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 10 Business Days after the Notice is provided.

The Parties shall negotiate to resolve any disputes regarding the calculation of the Termination Payment and Forward Settlement Amount. Any disputes which the Parties

are unable to resolve through negotiation may be submitted for resolution through the dispute resolution procedure in Article Ten.

**** End of Article Six ****

ARTICLE SEVEN. LIMITATIONS OF LIABILITIES

EXCEPT AS SET FORTH IN THIS ARTICLE SEVEN, 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 IS THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY IS 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.

IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, THE OBLIGOR'S LIABILITY IS LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES IS THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

THE VALUE OF ANY PRODUCTION TAX CREDITS DETERMINED ON AN AFTER-TAX BASIS, LOST DUE TO BUYER'S DEFAULT (WHICH SELLER HAS NOT BEEN ABLE TO MITIGATE AFTER USE OF REASONABLE EFFORTS) IF ANY, SHALL BE DEEMED DIRECT DAMAGES.

THE VALUE OF ANY INVESTMENT TAX CREDITS DETERMINED ON AN AFTER-TAX BASIS, LOST DUE TO BUYER'S DEFAULT (WHICH SELLER HAS NOT BEEN ABLE TO MITIGATE AFTER USE OF REASONABLE EFFORTS) IF ANY, SHALL BE DEEMED DIRECT DAMAGES.

UNLESS EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, INCLUDING THE PROVISIONS OF SECTION 9.04, 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 IMPOSED IN THIS ARTICLE SEVEN 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 UNDER THIS AGREEMENT 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 UNDER THIS AGREEMENT CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

NOTHING IN THIS ARTICLE SEVEN PREVENTS, OR IS INTENDED TO PREVENT BUYER FROM PROCEEDING AGAINST OR EXERCISING ITS RIGHTS WITH RESPECT TO ANY SECURED INTEREST IN COLLATERAL.

**** End of Article Seven ****

ARTICLE EIGHT. GOVERNMENTAL CHARGES

8.01 Cooperation to Minimize Tax Liabilities. Each Party shall use diligent 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.

8.02 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 Generating Facility, Monthly Contract Payments made by Buyer to Seller, or the Power Product before the Delivery Point, including ad valorem taxes and other taxes attributable to the Generating Facility, the Site or land rights or interests in the Site or the Generating Facility.

Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Power Product at and after the Delivery Point.

If Seller is required by Applicable Laws to remit or pay Governmental Charges which are Buyer's responsibility under this Agreement, Buyer shall promptly reimburse Seller for such Governmental Charges.

If Buyer is required by Applicable Law or regulation to remit or pay Governmental Charges which are Seller's responsibility under this Agreement, Buyer may deduct such amounts from payments to Seller made pursuant to Article Four.

If Buyer elects not to deduct such amounts from Seller's payments, Seller shall promptly reimburse Buyer for such amounts upon Notice from Buyer of the amount to be reimbursed.

Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under Applicable Laws.

Notwithstanding any of the foregoing, obligations with respect to CAISO Charges are governed by the provisions of Exhibit J.

8.03 Providing Information to Taxing Governmental Authorities. To the extent required by Applicable Law and subject to Section 9.10(b), each Party shall provide information concerning the Generating Facility to any requesting taxing Governmental Authority.

**** End of Article Eight ****

ARTICLE NINE. MISCELLANEOUS

9.01 Representations, Warranties and Covenants.

(a) On the Effective Date, 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) 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 Applicable Laws;

(iii) This Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms, subject to any Equitable Defenses;

(iv) There is not pending, or to its knowledge, threatened against it or, in the case of Seller, any of its Related Entities, any legal proceeding that could materially adversely affect its ability to perform under this Agreement;

(v) No Event of Default with respect to it has occurred and is continuing and no such event or circumstance will occur as a result of its entering into or performing its obligations under this Agreement;

(vi) 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;

(vii) It has not relied on any promises, representations, statements or information of any kind whatsoever that are not contained in this Agreement in deciding to enter into this Agreement; and

(viii) It has entered into this Agreement in connection with the conduct of its business and it has the capacity or ability to provide or receive the Power Product as contemplated by this Agreement.

(b) On the Effective Date:

(i) Each Party covenants to the other Party that, it has or will timely acquire all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and

(ii) If Section 1.02(a) provides that the Generating Facility is an Existing Qualifying Facility, then, Seller represents and warrants to Buyer that the Generating Facility qualifies as an Existing Qualifying Facility.

9.02 Additional Covenants by Seller. Seller covenants to Buyer that:

(a) It will have Site Control as of the earlier of (i) the Term Start Date and (ii) any period before the Term Start Date to the extent necessary for Seller to perform its obligations under this Agreement and, in each case, will maintain Site Control throughout the Term;

(b) Throughout the Term, it or its subcontractors will own or lease and Operate the Generating Facility unless otherwise agreed to by the Parties;

(c) Throughout the Term, it will deliver the Product to Buyer free and clear of all liens, security interests, Claims and encumbrances or any interest therein or thereto by any Person;

(d) Throughout the Term, it will hold the rights to all of the Product, subject to the terms of this Agreement;

(e) If Section 1.02(a) provides that the Generating Facility is a New Qualifying Facility, then, subject to Section 3.17(c), (i) the Generating Facility will be designed and constructed so as to satisfy all of the requirements applicable to a Qualifying Facility, and (ii) during the Term, the Generating Facility will maintain its status as a Qualifying Facility.

(f) If Section 1.02(a) provides that the Generating Facility is an Existing Qualifying Facility, then, subject to Section 3.17(c), from the Effective Date until the Term End Date, the Generating Facility will maintain its status as a Qualifying Facility;

(g) Throughout the Term, it will not (1) convey, transfer, allocate, designate, award, report or otherwise provide any or all of the Product, or any portion thereof, or any benefits derived therefrom, to any party other than Buyer (except, if Buyer is not Scheduling Coordinator, as may relate to transactions in the Real-Time Market arising from ordinary course deviations between Metered Amounts and electric energy Scheduled to Buyer), or (2) start-up or Operate the Generating Facility per instruction of or for the benefit of any third party (except in order to satisfy the Site Host Load, or as required by other Applicable Laws);

(h) Upon Buyer's request, Seller shall provide to Buyer documentation evidencing the Generating Facility's contribution to Buyer's compliance with the GHG EPS; and

(i) Seller shall comply with all (i) applicable cap-and-trade programs for the regulation of Greenhouse Gas, as established by any Governmental Authority pursuant to federal or state legislation, and (ii) other applicable programs regulating Greenhouse Gas emissions.

9.03 Additional Representations, Warranties, and Covenants Applicable to Renewable Small Power Production Facilities. If the Generating Facility is a small power production facility, as set forth in Section 1.02(c), that utilizes a technology referenced in Section 399.12 of the California Renewables Portfolio Standard, then:

(a) 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.

(b) 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.

The term "commercially reasonable efforts" in Sections 9.03(a) and 9.03(b) does not require Seller to pay or incur more than $20,000 multiplied by the number of Term Years in the Term.

(c) 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.

9.04 Indemnity.

(a) Each Party as indemnitor shall defend, save harmless and indemnify the other Party and the directors, officers, employees, and agents of such other Party against and from any and all loss, liability, damage, claim, cost, charge, demand, or expense (including any direct, indirect, or consequential loss, liability, damage, claim, cost, charge, demand, or expense, including reasonable attorneys' fees) for injury or death to Persons, including employees of either Party, and physical damage to property including property of either Party arising out of or in connection with the negligence or willful misconduct of the indemnitor relating to its obligations under this Agreement.

This indemnity applies notwithstanding the active or passive negligence of the indemnitee. However, neither Party is indemnified under this Agreement for its loss, liability, damage, claim, cost, charge, demand or expense to the extent resulting from its negligence or willful misconduct.

(b) Each Party releases and shall defend, save harmless and indemnify the other Party from any and all loss, liability, damage, claim, cost, charge, demand or expense arising out of or in connection with any breach made by the indemnifying Party of its representations, warranties and covenants in Section 9.01, Section 9.02 and Section 9.03.

(c) The provisions of this Section 9.04 may not be construed to relieve any insurer of its obligations to pay any insurance Claims in accordance with the provisions of any valid insurance policy.

(d) Notwithstanding anything to the contrary in this Agreement, if Seller fails to comply with the provisions of Section 9.11, Seller shall, at its own cost, defend, save harmless and indemnify Buyer, its directors, officers, employees, and agents, assigns, and successors in interest, from and against any and all loss, liability, damage, claim, cost, charge, demand, or expense of any kind or nature (including any direct, indirect, or consequential loss, damage, claim, cost, charge, demand, or expense, including reasonable attorneys' fees and other costs of litigation), resulting from injury or death to any person or damage to any property, including the personnel or property of Buyer, to the extent that Buyer would have been protected had Seller complied with all of the provisions of Section 9.11.

The inclusion of this Section 9.04(d) is not intended to create any express or implied right in Seller to elect not to provide the insurance required under Section 9.11.

(e) Each Party shall defend, save harmless and indemnify the other Party against any Governmental Charges for which such indemnifying Party is responsible under Article Eight.

(f) Seller shall defend, save harmless and indemnify Buyer against any costs associated with the implementation and regulation of Greenhouse Gas emissions with respect to Seller or the Generating Facility.

(g) Seller shall defend, save harmless and indemnify Buyer against any penalty imposed upon Buyer as a result of Seller's failure to fulfill its obligations regarding Resource Adequacy Benefits as set forth in Sections 3.01 and 3.02, with the exception of the obligations set forth in Section 3.01(c)(vi).

(h) Seller is solely responsible for any NERC Standards Non-Compliance Penalties arising from or relating to Seller's failure to perform the Generator Operator Obligations or the Generator Owner Obligations for which Seller is responsible, in accordance with Section 3.21, and will indemnify, defend and hold Buyer harmless from and against all liabilities, damages, Claims, losses, and reasonable costs and expenses (which shall include reasonable costs and expenses of outside or in-house counsel) incurred by Buyer arising from or relating to Seller's actions or inactions that result in NERC Standards Non-Compliance Penalties or an attempt by any Governmental Authority, Person to assess such NERC Standards Non-Compliance Penalties against Buyer. Buyer will indemnify, defend and hold Seller harmless from and against all liabilities, damages, Claims, losses and reasonable costs and expenses (which shall include reasonable costs of outside and in-house counsel) incurred by Seller for any NERC Standards Non-Compliance Penalties to the extent they are due to Buyer's negligence or willful misconduct in performing its role as Seller's Scheduling Coordinator during the Term.

(i) All indemnity rights will survive the termination of this Agreement for 12 months.

9.05 Assignment.

(a) With Consent. Subject to Section 9.05(b), Seller may not transfer or assign this Agreement or its rights under this Agreement without the prior written consent of Buyer, which consent may not be unreasonably withheld or delayed. Any 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 Buyer, which consent will not be unreasonably withheld. For purposes of this Section 9.05, Buyer will not withhold its consent to an indirect change of control of Seller if Seller demonstrates to Buyer's reasonable satisfaction that Seller shall continue to perform its obligations under this Agreement as if no such indirect change of control had occurred.

(b) Without Consent. Notwithstanding anything to the contrary set forth in Section 9.05(a):

(i) Seller may, without the consent of Buyer (and without relieving itself from liability hereunder): (1) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements in accordance with Section 9.06; or (2) transfer or assign this Agreement to an Related Entity of Seller, which Related Entity's creditworthiness is equal to or higher than that of Seller; and

(ii) Seller does not need to obtain Buyer's consent to any change of control described in this Section 9.05 if such change of control results from a purchase of the outstanding shares of a publicly traded company.

9.06 Consent to Collateral Assignment. Subject to the provisions of this Section 9.06, Seller may (but is not obligated to) assign this Agreement as collateral to a Lender for any financing or refinancing of the Generating Facility, including a Sale-Leaseback Transaction or Equity Investment and, in connection therewith, Buyer shall in good faith work with Seller and Lender to agree upon a consent to a collateral assignment of this Agreement or to a Sale-Leaseback Transaction or Equity Investment, as applicable ("Collateral Assignment Agreement").

The Collateral Assignment Agreement shall be in form and substance reasonably agreed to by Buyer, Seller and Lender, and shall include, among others, the following provisions (together with such other commercially reasonable provisions required by any Lender that are reasonably acceptable to Buyer):

(a) Buyer shall give, to the Person(s) to be specified by Lender in the Collateral Assignment Agreement, simultaneously with the Notice to Seller and before exercising its right to terminate this Agreement, written Notice of any event or circumstance known to Buyer which would, if not cured within the applicable cure period specified in Article VI, constitute an Event of Default (an "Incipient Event of Default");

(b) Lender shall have the right to cure an Incipient Event of Default or an Event of Default by Seller in accordance with the same provisions of this Agreement as apply to Seller;

(c) Following an Event of Default by Seller under this Agreement, Buyer may require Seller to (although Lender may, but shall have no obligation, subject to 9.06(g)) provide to Buyer 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 Buyer may reasonably require related to the development, implementation and timetable of the cure plan;

(d) Seller or Lender shall provide the report to Buyer within 10 Business Days after Notice from Buyer requesting the report. Buyer shall have no further right to require the report with respect to a particular Event of Default after that Event of Default has been cured;

(e) Lender shall have the right to cure an Event of Default or Incipient Event of Default on behalf of Seller, only if Lender sends a written notice to Buyer before the end of any cure period indicating Lender's intention to cure. Lender may remedy or cure the Event of Default or Incipient Event of Default within the cure period under this Agreement. Such cure period for Lender shall be extended for each day Buyer does not provide the Notice to Lender referred to in Section 9.06(a). In addition, such cure period may, in Buyer's reasonable discretion, be extended by no more than an additional 180 days. If possession of the Generating Facility is necessary to cure such Incipient Event of Default or Event of Default, Lender has commenced foreclosure proceedings within 60 days after receipt of such Notice from Buyer, and Lender is making diligent and consistent efforts to complete such foreclosure, take possession of the Generating Facility and promptly cure the Incipient Event of Default or Event of Default, Lender or its designee(s) or assignee(s) will be allowed a reasonable period of time to complete such foreclosure proceedings, take possession of the Generating Facility and cure such Incipient Event of Default or Event of Default, not to exceed 180 days after Lender's commencement of foreclosure. Additionally, if Lender is prohibited from curing any Incipient Event of Default or Event of Default by any process, stay or injunction issued by a Governmental Authority or pursuant to any bankruptcy, insolvency or similar proceedings, then the time period for curing such Incipient Event of Default or Event of Default shall be extended for the period of the prohibition provided that Lender is exercising reasonable diligence in having such process, stay or injunction removed;

(f) Lender shall have the right to consent before any termination of this Agreement which does not arise out of an Event of Default or the end of the Term;

(g) Lender shall receive prior Notice of, and shall have the right to approve material amendments to this Agreement, which approval may not be unreasonably withheld, delayed or conditioned;

(h) In the event Lender, directly or indirectly, takes title to the Generating Facility (including title by foreclosure or deed in lieu of foreclosure), the Person taking title to the Generating Facility shall 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, Buyer and Lender as set forth in the Collateral Assignment Agreement); *provided, however,* that Lender (or such Person) shall have no liability for any monetary obligations of Seller under this Agreement which are due and owing to Buyer as of the assumption date (but this provision may not be interpreted to limit Buyer's rights to proceed against Seller as a result of an Event of Default) and Lender's (or such Person's) liability to Buyer after such assumption shall be limited to its interest in the Generating Facility; *provided further*, that before such assumption, if Buyer advises Lender (or such Person) that Buyer will require that Lender (or such Person) cure (or cause to be cured) one or more monetary or non-monetary Incipient Event(s) of Default or Event(s) of Default existing as of the date such Person takes title in order to avoid the exercise by Buyer (in its sole discretion) of Buyer's right to terminate this Agreement with respect to such Incipient Event(s) of Default or Event(s) of Default, then Lender (or such Person) at its option and in its sole discretion may elect to either (i) cause such Incipient Event(s) of Default or Event of Default to be cured, or (ii) not assume this Agreement;

(i) If Lender has assumed this Agreement as provided in Section 9.06(h) and elects to sell or transfer the Generating Facility (after Lender directly or indirectly, takes title to the Generating Facility), or sale of the Generating Facility occurs through the actions of Lender or an agent of or representative of Lender (excluding any foreclosure sale where a third party other than Lender, Seller, an Related Entity of Lender or an Related Entity of Seller is the buyer), 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 excluding, however, a foreclosure (unless the transferee or buyer is Lender, Seller, an Related Entity of Lender or an Related Entity of Seller). Lender shall be released from all further obligations under the Agreement and all related documents following such assumption. Such sale or transfer (excluding a foreclosure) may be made only to a Person reasonably acceptable to Buyer; and

(j) If this Agreement is rejected in Seller's Bankruptcy or otherwise terminated in connection therewith and if Lender or its representative or designee, directly or indirectly, takes title to the Generating Facility, then, at the request of either Buyer or Lender, Buyer and Lender (or its designee or representative) shall promptly enter into a new agreement with Buyer having substantially the same terms as this Agreement for the term that would have been remaining under this Agreement, provided that Lender's (or its designee's or representative's) liability under such new agreement shall be limited to its interest in the Generating Facility and neither Lender (or its designee or representative) nor Buyer shall

have any personal liability to the other for any amounts owing and neither Buyer nor Lender (or its designee or representative) shall have any obligation to cure any defaults under the original Agreement that was rejected in, or otherwise terminated in connection with Seller's Bankruptcy.

9.07 Governing Law and Jury Trial Waiver. THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER ARE 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.

9.08 Notices. All Notices shall be provided as specified in Exhibit N. Notices (other than Forecasts and Scheduling requests) shall, unless otherwise specified in this Agreement, be in writing and may be delivered by hand delivery, first class United States mail, overnight courier service, or electronic transmission. Notices provided in accordance with this Section 9.08 are deemed given as follows:

(a) Notice by electronic transmission or hand delivery is deemed given at the close of business on the day actually received, if received during business hours on a Business Day, and otherwise are deemed given at the close of business on the next Business Day;

(b) Notice by overnight first-class United States mail or overnight courier service is deemed given on the next Business Day after such Notice is sent out;

(c) Notice by first class United States mail is deemed given two Business Days after the postmarked date;

(d) Notices are 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;

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

(f) All Notices for this Generating Facility must reference the identification number set forth on the cover page of this Agreement.

9.09 General.

(a) Notwithstanding anything to the contrary set forth in this Agreement, with respect to any terms, conditions or other provisions, which are not specifically related to

Power Product pricing and not expressly addressed in this Agreement, the applicable provisions of that certain Settlement Agreement shall control.

(b) This Agreement supersedes all prior agreements, whether written or oral, between the Parties with respect to its subject matter and constitutes the entire agreement between the Parties relating to its subject matter.

(c) This Agreement will not be construed against any Party as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

(d) Except to the extent provided for in this Agreement, no amendment or modification to this Agreement is enforceable unless reduced to a writing signed by all Parties.

(e) If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

(f) Waiver by a Party of any default by the other Party will not be construed as a waiver of any other default.

(g) The term "including" when used in this Agreement is by way of example only and will not be considered in any way to be in limitation.

(h) The word "or" when used in this Agreement includes the meaning "and/or" unless the context unambiguously dictates otherwise.

(i) The headings used in this Agreement are for convenience and reference purposes only and will not affect its construction or interpretation. All references to "Articles", "Sections" and "Exhibits" refer to the corresponding Articles, Sections and Exhibits of this Agreement. Unless otherwise specified, all references to "Articles" or "Sections" in Exhibits A through T-2 refer to the corresponding Articles and Sections in the main body of this Agreement. Words having well-known technical or industry meanings have such meanings unless otherwise specifically defined in this Agreement.

(j) Where days are not specifically designated as Business Days, they are calendar days. Where years are not specifically designated as Term Years, they are calendar years.

(k) This Agreement will apply to, be binding in all respects upon and inure to the benefit of the successors and permitted assigns of the Parties. Nothing in this

Agreement will be construed to give any Person other than the Parties any legal or equitable right, remedy or claim under or with respect to this Agreement or any provision of this Agreement, except as shall inure to a successor or permitted assignee.

(l) No provision of this Agreement is intended to contradict or supersede any applicable agreement between the Parties or between or among Seller, the CAISO and the Transmission Provider, covering transmission, distribution, metering, scheduling or interconnection of electric energy (including the PGA and QF PGA). In the event of an apparent contradiction between this Agreement and any such agreement, the applicable agreement controls.

(m) Whenever this Agreement specifically refers to any law, tariff, government department or agency, regional reliability council, Transmission Provider, or credit rating agency, the Parties agree that the reference also refers to any successor to such law, tariff or organization.

(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 United States Bankruptcy Code and that Buyer and Seller are each "forward contract merchants" within the meaning of the United States 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 an Adobe Acrobat file 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. Signatures of the Parties transmitted by electronic means will be deemed to be their original signatures for all purposes.

9.10 Confidentiality.

(a) Neither Party may disclose any Confidential Information to a third party, other than:

(i) To such Party's employees, Lenders, investors, attorneys, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential;

(ii) To potential Lenders with the consent of Buyer, which consent will not be unreasonably withheld; *provided, however,* that disclosure (1) of cash flow and other financial projections to any potential Lender or investor in connection with a potential loan or tax equity investment; or (2) to

potential Lenders or investors with whom Seller has negotiated (but not necessarily executed) a term sheet or other similar written mutual understanding, will not require such consent of Buyer; *provided further*, that in each case such potential Lender or investor has a need to know such information and has agreed to keep such terms confidential;

(iii) To Buyer's Procurement Review Group and Cost Allocation Mechanism Group, as defined in D.02-08-071 and D.06-07-029, respectively, subject to a protective order applicable to Buyer's Procurement Review Group;

(iv) With respect to Confidential Information other than nonpublic financial information of Seller supplied to Buyer pursuant to Section 3.20, to the CPUC, the CEC or the FERC, under seal for any regulatory purpose, including policymaking, but only provided that the confidentiality protections from the CPUC under Section 583 of the California Public Utilities Code or other statute, order or rule offering comparable confidentiality protection are in place before the communication of such Confidential Information;

(v) 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 9.10(a)(vi);

(vi) In order to comply with any Applicable Law, including applicable regulation, rule, subpoena, or order of the CPUC, CEC, FERC, any court, administrative agency, legislative body or other tribunal, or any discovery or data request of the CPUC;

(vii) To representatives of a Party's credit ratings agencies 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 or with respect to the potential impact of this Agreement on the Party's financial reporting obligations, in each case subject to confidentiality restrictions no less stringent than as set forth in this Agreement; and

(viii) As may reasonably be required to participate in WREGIS or other process recognized under Applicable Laws for the registration, transfer or ownership of Green Attributes associated with the Related Products.

(b) In connection with requirements, requests or orders to produce documents or information in the circumstances provided in Sections 8.03 and 9.10(a)(vi) ("Disclosure Order") each Party shall, to the extent practicable, use reasonable efforts to (i) notify the other Party before disclosing the confidential information, and (ii) prevent or limit such disclosure. After using such reasonable efforts, the

disclosing party may not be (x) prohibited from complying with a Disclosure Order, or (y) liable to the other Party for monetary or other damages incurred in connection with the disclosure of any terms or conditions of this Agreement which are the subject of such Disclosure Order.

(c) Except as provided in clause (y) of Section 9.10(b), the Parties are entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, the confidentiality obligations set forth in this Section 9.10.

9.11 Insurance.

(a) As of the Effective Date and throughout the Term (and for such additional periods as may be specified in this Section 9.11), Seller shall, at its own expense, provide and maintain in effect the insurance policies and minimum limits of coverage specified in this Section 9.11, 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 in this Section 9.11 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; and

3) Bodily injury by disease – One Million dollars ($1,000,000) each employee; and

(iii) Commercial General Liability Insurance, (which, except with the prior written consent of Buyer and subject to Sections 9.11(a)(ii)(1) and (2), 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, broad form property damage, personal and advertising injury, products/completed operations, and contractual liability. Such insurance shall bear a combined single limit per occurrence and annual aggregate of not less than one million dollars ($1,000,000), exclusive of defense costs, for all coverages. Such

insurance shall contain standard cross-liability and severability of interest provisions.

If Seller elects, with Buyer'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 years after the Agreement terminates, or the policy must provide for a supplemental extended reporting period of not less than four 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 $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 automobiles in the performance of the Agreement.

(v) 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, and Commercial Automobile Liability insurance, on terms at least as broad as the underlying coverage, with limits of not less than $10,000,000 per occurrence and in the annual aggregate. The insurance requirements of this Section 9.11 can be provided by any combination of Seller's primary and excess liability policies.

(b) The insurance required in Section 9.11(a) apply as primary insurance to, without a right of contribution from, any other insurance maintained by or afforded to Buyer, 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 Applicable Law, Seller and its insurers are required to waive all rights of recovery from or subrogation against Buyer, its subsidiaries and affiliates, and their respective officers, directors, shareholders, agents, employees and insurers. The Commercial General Liability and Umbrella/Excess Liability insurance required above shall name Buyer, its subsidiaries and affiliates, and their respective officers, directors, shareholders, agents and employees, as additional insureds for liability arising out of Seller's construction, ownership or Operation of the Generating Facility.

(c) At the time this Agreement is executed, or within a reasonable time thereafter, and within a reasonable time after coverage is renewed or replaced, Seller shall furnish to Buyer certificates of insurance evidencing the coverage required in this Section 9.11, written on forms and with deductibles reasonably acceptable to Buyer. All deductibles, co-insurance and self-insured retentions applicable to the insurance above shall be paid by Seller. All certificates of insurance shall note that the insurers issuing coverage shall endeavor to provide Buyer with at least 30 days' prior written notice in the event of cancellation of coverage. Buyer's receipt of certificates that do not comply with the requirements stated herein, or Seller's failure to provide certificates, does not limit or relieve Seller of the duties and responsibility of maintaining insurance in compliance with the requirements in this Section 9.11 and does not constitute a waiver of any of the requirements in this Section 9.11.

(d) If Seller fails to comply with any of the provisions of this Section 9.11, Seller, among other things and without restricting Buyer's remedies under the Applicable 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 and Commercial Automobile Liability insurance, Seller shall provide a current, full and complete defense to Buyer, 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.

(e) Seller has the right to self-insure to comply with Seller's obligations under this Section 9.11. The insurance carrier or carriers and form of policy (including any deductible amount), or any plan for self-insurance shall be subject to review and approval by Buyer, which approval may not be unreasonably withheld, conditioned or delayed.

9.12 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 such service shall cease upon termination of this Agreement.

9.13 Mobile Sierra. Notwithstanding any provision of this Agreement, neither Party will seek, nor will they support any third party in seeking, to prospectively or retroactively revise the rates, terms, or conditions of service of this Agreement through application or complaint to FERC pursuant to the provisions of Section 205, 206, or 306 of the Federal Power Act, or any other provisions of the Federal Power Act, absent prior written agreement of the Parties.

Further, absent the prior agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of service of this Agreement proposed by a Party, a non-Party or the 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 US 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 US 348 (1956).

9.14 Seller Ownership and Control of Generating Facility. Seller agrees, that, in accordance with FERC Order No. 697, upon request of Buyer, Seller shall submit a letter of concurrence in support of an affirmative statement by Buyer that the contractual arrangement set forth in this Agreement does not transfer "ownership or control of generation capacity" from Seller to Buyer 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 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 Buyer.

9.15 Simple Interest Payments. 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 shall be eligible to receive a Simple Interest Payment calculated using the Interest Rate for the number of days between the date due and the date paid.

9.16 Payments. Payments to be made under this Agreement shall be made, at Seller's option, by check or electronic wire funds transfer.

9.17 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 hereof, that money damages would not be a sufficient remedy for any breach of such provisions of this Agreement, and that the Parties shall be entitled, without the requirement of posting a bond or the other security, to seek a preliminary injunction, temporary restraining order, or other provisional relief as a remedy for a breach of Sections 3.01, 3.02, 3.03, or 9.10 (and, if applicable, Section 4(e) of Exhibit F) 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 10.01. The Parties further acknowledge and agree that the results of such arbitration may be rendered ineffectual without such 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 10.01, 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 such breach of the provision, or if this Agreement does not specify a remedy for such breach, all other remedies available at law or equity to the Parties for such breach.

**** End of Article Nine ****

ARTICLE TEN. DISPUTE RESOLUTION

10.01 Dispute Resolution. Other than requests for provisional relief under Section 9.17, 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 ("Disputes"), which Disputes the Parties have been unable to resolve by informal methods, will first be submitted to mediation in accordance with the procedures described in Section 10.02, and if the Dispute is not resolved through mediation, then for final and binding arbitration in accordance with the procedures described in Section 10.03.

10.02 Mediation. Either Party may initiate mediation by providing Notice to the other Party 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 JAMS 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 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 120 days from the date of Notice of the request for mediation.

The Parties covenant that they will participate in the mediation, 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, however,* that evidence that is otherwise admissible or discoverable will not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

10.03 Arbitration. Either Party may initiate binding arbitration with respect to the matters first submitted to mediation in accordance with Section 10.02 by providing Notice of a demand for binding arbitration before a single, neutral arbitrator (the "Arbitrator") at any time following the unsuccessful conclusion of the mediation provided for in Section 10.02.

The Parties will cooperate with one another in selecting the Arbitrator within 60 days after Notice of the demand for arbitration and will further cooperate in scheduling the

arbitration to commence no later than 180 days from the date of Notice of the demand. If 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 in this Section 10.03, 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, California, and 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 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 25 document requests (with no subparts), three lay witness depositions, and three 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 expert witnesses, excluding rebuttal experts;

(g) Within 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 30 days after the initial expert disclosure, the Parties may designate a maximum of two 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 in the event certain provisions of this Agreement are not performed in accordance with the terms hereof, that money damages would not be a sufficient remedy for any breach of such 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 Sections 3.01, 3.02, 3.03 or 9.10 (and, if applicable, Section 4(e) of Exhibit F).

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.

*** *End of Article Ten* ***

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their respective authorized representatives as of the Effective Date.

[SELLER'S NAME],
a **[Seller's form of business and state of registration]**

By:_____

Name:_____

Title:_____

Date:_____

SOUTHERN CALIFORNIA EDISON COMPANY,
a California corporation

By:_____

Name:_____

Title:_____

Date:_____

EXHIBIT A
Definitions

For purposes of this Agreement, the following terms and variations thereof have the meanings specified or referred to in this Exhibit A:

"2010 Decision" has the meaning set forth in Recital D.

"Agreement" has the meaning set forth in the Preamble.

"Ambient Outage" means reductions in capacity due to that status of, or variations in, Site Host Load or ambient weather conditions.

"Applicable Laws" means all constitutions, treaties, laws, ordinances, rules, regulations, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority or arbitrator 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 Section 10.03.

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

"Availability Standards" has the meaning set forth in the CAISO Tariff.

"Available Capacity" is the available total generation capacity of the Generating Facility (in MW), accounting for Outages submitted in accordance with Exhibit R.

"Bankrupt" means with respect to any Person, such Person:

(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 (which petition is not dismissed within 90 days);

(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 it or any substantial portion of its property or assets; or

(e) Is generally unable to pay its debts as they fall due.

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

"Buyer" has the meaning set forth in the Preamble.

"CAISO" means the California Independent System Operator Corporation or successor entity that dispatches certain generating units, supplies certain loads and controls the transmission facilities of entities that (a) own, operate and maintain transmission lines and associated facilities or have entitlements to use certain transmission lines and associated facilities, and (b) have transferred to the CAISO or its successor entity operational control of such facilities or entitlements.

"CAISO-Approved Meter" means any revenue quality, electric energy measurement meter furnished by Seller, that (a) is designed, manufactured and installed in accordance with the CAISO's metering requirements, or, to the extent that the CAISO's metering requirements do not apply, Prudent Electrical Practices, and (b) includes all of the associated metering transformers and related appurtenances that are required in order to measure the net electric energy output from the Generating Facility.

"CAISO-Approved Quantity" means the total quantity of electric energy that Buyer Schedules with the CAISO and the CAISO approves in its final schedule which is published in accordance with the CAISO Tariff.

"CAISO Charges" means the debits, costs, fees, penalties, sanctions, interest or similar charges, including imbalance energy charges, that are directly assigned by the CAISO to the CAISO Global Resource ID for the Generating Facility for, or attributable to, Scheduling or deliveries from the Generating Facility under this Agreement.

"CAISO Controlled Grid" has the meaning set forth in the CAISO Tariff.

"CAISO Global Resource ID" means the number or name assigned by the CAISO to the CAISO-Approved Meter.

"CAISO Revenues" means the credits, fees, payments, revenues, interest or similar benefits, including imbalance energy payments, that are directly assigned by the CAISO to the CAISO Global Resource ID for the Generating Facility for, or attributable to, Scheduling or deliveries from the Generating Facility under this Agreement.

"CAISO Tariff" means the California Independent System Operator Corporation Operating Agreement and Tariff, including the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time to time and approved by the FERC.

"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, tag, credits, ancillary service attributes, or accounting constructs, howsoever entitled, other than

Resource Adequacy Benefits, attributed to or associated with the electricity generating capability of the Generating Facility.

"Capacity Performance Requirement", or "CR", means the values set forth in Section 1.04.

"Capacity Price" has the meaning set forth in Section 3 of Exhibit D.

"CARB" means California Air Resources Board, or any successor entity.

"CEC" means the California Energy Commission, or any successor entity.

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

"Check Meter" means the Buyer revenue-quality meter section or meter(s), which Buyer may require at its discretion, as set forth in Section 3.08(b) and will include those devices normally supplied by Buyer or Seller under the applicable utility Electric Service Requirements.

"Claiming Party" has the meaning set forth in Section 5.02.

"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 before or after the termination of this Agreement.

"Collateral Assignment Agreement" has the meaning set forth in Section 9.06.

"Confidential Information" means all oral or written communications exchanged between the Parties on or after the Effective Date relating to the implementation of this Agreement, including information related to Seller's compliance with operating and efficiency standards applicable to a "qualifying cogeneration facility" (as contemplated in 18 CFR Part 292, Section 292.205) or fuel use standards applicable to a "qualifying small power production facility" (as contemplated in 18 CFR Part 292, Section 292.204). Confidential Information does not include (i) information which is in the public domain as of the Effective Date or which comes into the public domain after the Effective Date from a source other than from the other Party, (ii) information which either Party can demonstrate in writing was already known to such Party on a non-confidential basis before the Effective Date, (iii) information which comes to a Party from a bona fide third-party source not under an obligation of confidentiality, or (iv) information which is independently developed by a Party without use of or reference to Confidential Information or information containing Confidential Information.

"Contract Capacity" has the meaning set forth in Section 1.02(d).

"Contract Capacity Confirmation Certificate" has the meaning set forth in Section 3.13(a).

"Contract Price Advice Letter" means an advice letter filed by Buyer with the CPUC pursuant to Ordering Paragraphs 6, 7 or 8 of D.20-05-006.

"Contract TOD Energy Price" has the meaning set forth in Section 2(b) of Exhibit D.

{Drafting Note: Delete this definition of Contract TOD Energy Price if Exhibit D (As-Executed Option) is chosen.}

"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.

"Converted Physical Trade", or "CPT", means the quantity from Physical Trades, in MWh, that did not pass CAISO's physical validation of the IFM.

"Converted Physical Trade Price" means the price, in dollars per MWh, used by the CAISO to settle the quantity, in MWh, associated with the Converted Physical Trade.

"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 such Party in entering into any new arrangement which replaces this Agreement.

"CPUC" means the California Public Utilities Commission, or any successor entity.

"Credit Rating" means with respect to any Person, on the relevant date of determination, the respective ratings then assigned to such Person's unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancement) by S&P or Moody's. If no rating is assigned to such Person's unsecured, senior long-term debt or deposit obligation by either S&P or Moody's, then "Credit Rating" shall mean the general corporate credit rating or long-term issuer rating assigned to such Person by S&P or Moody's, as the case may be.

"Curtailment Period" means a time period for which Seller is requested by the CAISO or a Transmission Provider to curtail its Power Product for Force Majeure or otherwise.

"D." has the meaning set forth in Recital A.

"Daily Delay Liquidated Damages" has the meaning set forth in Section 4(c)(ii) of Exhibit F.

"Day-Ahead" has the meaning set forth in the CAISO Tariff.

"Day-Ahead Forecast" has the meaning set forth in Section 2(c)(i) of Exhibit I.

"Day-Ahead Market" has the meaning set forth in the CAISO Tariff.

"Day-Ahead Price" means the Locational Marginal Price specific to the PNode applicable to the Project for a given hour in the Day-Ahead Market.

"Day-Ahead Schedule" has the meaning set forth in the CAISO Tariff.

"Day-Ahead Scheduling Deadline" means five hours before the deadline established by the CAISO for submission of schedules for the applicable day.

"Decision" has the meaning set forth in Recital A.

"Deemed Delivered Energy" means the amount of energy that Seller could reasonably have delivered to Buyer, but was instructed not to deliver to Buyer by reason of Economic Dispatch Down. The quantity of Deemed Delivered Energy shall be equal to: (a) the result of (i) the lesser of (y) the Deemed Delivery Forecast in the applicable Economic Dispatch Down period and (z) the Project's Maximum Potential Energy in the applicable Economic Dispatch Down period; *less* (ii) the greater of (y) the total Expected Energy in the applicable Economic Dispatch Down period and (z) the actual energy delivered during such period; and *less* (iii) any amount of energy that was not delivered due to any concurrent Planned Outage, Forced Outage, Force Majeure, Power Product Curtailment, and/or CAISO action or inaction (but only to the extent the Deemed Delivery Forecast does not already reflect any of the foregoing); provided that, if the applicable amount calculated pursuant to this clause (a) is negative, the Deemed Delivered Energy shall be zero (0); or (b) if there is no such Deemed Delivery Forecast available during the applicable Economic Dispatch Down period, the amount of energy that Seller could reasonably have delivered to Buyer, but was instructed not to deliver to Buyer as a result of Economic Dispatch Down, as determined by Buyer based on Seller's Final Energy Forecast and the amount of energy delivered, which amount shall not include any amount of energy that was not delivered due to any concurrent Planned Outage, Forced Outage, Force Majeure, Power Product Curtailment, and/or CAISO action or inaction. In each case, the calculation of Deemed Delivered Energy shall be calculated according to the formula set forth in Exhibit U.

"Deemed Delivery Forecast" for (i) a PIRP certified facility means the final forecast of the energy to be produced by the Project as prepared by the CAISO or its agent in accordance with the PIRP Forecasting Program and communicated to the Scheduling Coordinator, which forecast is the last such forecast prepared by the CAISO that does not reflect curtailed production as a result of Economic Dispatch Down periods (as of the Effective Date, such Deemed Delivery Forecast is the final real-time CAISO forecast generated by the CAISO and communicated to Scheduling Coordinator for use in submitting a Schedule for the output of the Project in the Real-Time Market) or (ii) for a non-PIRP certified facility means the Seller's Day-Ahead Forecast, updated for Outages, which is the expected hourly forecast of the total electric energy production of the Generating Facility (in MWh) as measured by the CAISO-Approved Meter. For a PIRP certified facility, if no such PIRP forecast is available, then the Deemed Delivery Forecast will be determined based upon: (1) the Available Capacity, (2) meteorological data for the Generating Facility during the applicable Settlement Interval(s), or (3) at Buyer's discretion, Seller's Day-Ahead Forecast.

"Defaulting Party" has the meaning set forth in Section 6.01(a).

"Delivery Point" has the meaning set forth in Section 1.03.

"Delivery Term" means the Term.

"Development Security" has the meaning set forth in Section 4(b)(i) of Exhibit F.

"Disclosure Order" has the meaning set forth in Section 9.10(b).

"Dispute" has the meaning set forth in Section 10.01.

"Early Termination Date" has the meaning set forth in Section 6.02(a).

"Economic Dispatch Down" means curtailment of delivery of Product from the Project that is the result of economic curtailment where Buyer, as the Scheduling Coordinator, either (i) submits a Self-Schedule with a binding Product quantity (that is less than the Forecast) or an economic bid in the applicable CAISO market, or (ii) fails to submit any such schedule, in either case, that, when implemented by the CAISO, results in an otherwise available Product quantity not being scheduled or awarded in such CAISO market, and such curtailment is not concurrently the result of a Planned Outage, Forced Outage, Force Majeure, Power Product Curtailment, change in Available Capacity, and/or CAISO action or inaction.

"Effective Date" has the meaning set forth in the Preamble.

"Emergency Condition" has the meaning set forth in the Transmission Provider's LGIA or SGIA with Seller, or the distribution-level FERC-jurisdictional interconnection agreement with Seller, as applicable; *provided, however*, that if Seller interconnects pursuant to Tariff Rule 21, "Emergency Condition" means "Emergency", as defined in such Tariff Rule 21.

"Energy Payment" has the meaning set forth in Section 2 of Exhibit D.

"Equitable Defense" means any Bankruptcy or 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.

"Equity Investment" means an acquisition by a Lender of an ownership interest in the form of stock, membership or partnership interest of Seller or the immediate parent of Seller under which Seller retains the right to act in all matters relating to the control and Operation of the Site and the Generating Facility for the Term, subject to Lender's rights to enforce its ownership interest in Seller or the immediate parent of Seller, as applicable, in the event of a default by Seller or the immediate parent of Seller under Lender's equity acquisition agreement or the partnership agreement, operating agreement, or other agreement governing the relationship between the equity owners of the Generating Facility.

"ERR" has the meaning set forth in Section 9.03(a)(i).

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

"Existing Qualifying Facility" means a Generating Facility that commenced Parallel Operation before the Effective Date, and that, as of the Effective Date, is a Qualifying Facility.

"Expected Energy" has the meaning set forth in the CAISO Tariff.

"Expected Term Year Energy Production" means the Metered Amounts expected to be produced by the Generating Facility during each Term Year, as set forth in Section 1.02(e).

"Extra Energy" means Metered Amounts in any Settlement Interval that exceed Contract Capacity *divided by* the number of Settlement Intervals per hour.

"Federal Funds Effective Rate" means the rate for that day opposite the caption "Federal Funds (effective)" as set forth in the weekly statistical release as H.15(519), or any successor publication, published by the Board of Governors of the Federal Reserve System.

"FERC" means the Federal Energy Regulatory Commission, or any successor entity.

"Financial Consolidation Requirement" has the meaning set forth in Section 3.20(a).

"Financial Incentives" means any and all financial incentives, benefits or credits associated with the Generating Facility, or the ownership or Operation thereof, or the electrical or thermal output of the Generating Facility, including any production or investment tax credits, real or personal property tax credits or sales or use tax credits, but not including any Green Attributes, Capacity Attributes or Resource Adequacy Benefits.

"Firm Operation Date" means the date that is six months after the Term Start Date.

"Force Majeure" means any event or circumstance to the extent beyond the control of, and not the result of the negligence of, or caused by, the Party seeking to have its performance obligation excused thereby, which by the exercise of due diligence such Party could not reasonably have been expected to avoid and which by exercise of due diligence it has been unable to overcome. Force Majeure does not include:

(a) A failure of performance of any other Person, including any Person providing electric transmission service or fuel transportation to the Generating Facility, except to the extent that such failure was caused by an event that would otherwise qualify as a Force Majeure event;

(b) Failure to timely apply for or obtain Permits or other credits required to Operate the Generating Facility;

(c) Breakage or malfunction of equipment (except to the extent that such failure was caused by an event that would otherwise qualify as a Force Majeure); or

(d) A lack of fuel of an inherently intermittent nature such as wind, water, solar radiation or waste gas or waste derived fuel.

"Forced Outage" has the meaning set forth in the CAISO Tariff.

"Forecast" means the hourly forecast of (a) the total electric energy production of the Generating Facility (in MWh) as measured by the CAISO-Approved Meter when the Generating Facility is not PIRP certified or Buyer is not Scheduling Coordinator net of the Site Host Load and Station Use, or (b) the available total generation capacity of the Generating Facility (in MW) when the Generating Facility is PIRP certified and Buyer is Scheduling Coordinator net of the Site Host Load and Station Use.

"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 Gains exceed its Costs and Losses, then the Forward Settlement Amount shall be zero dollars. 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. The Forward Settlement Amount does not include consequential, incidental, punitive, exemplary or indirect or business interruption damages.

"GAAP" means generally accepted accounting principles for financial reporting in the United States, 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), as of the Early Termination Date resulting from the termination of this Agreement, expressed in dollars and determined in a commercially reasonable manner. Factors used in determining the gain of economic benefit to a Party may include:

(a) Reference to information supplied by one or more third parties, which shall exclude Related Entities 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;

(b) [Intentionally omitted];

(c) Comparable transactions;

(d) Forward price curves based on economic analysis of the relevant markets; and

(e) Settlement prices for comparable transaction at liquid trading hubs (e.g., NYMEX);

All of which should be calculated for the remaining Term and shall include the value of Related Products.

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, then the Non-Defaulting Party may use information available to it internally.

"Generating Facility" means the Generating Unit(s) comprising Seller's power plant, as more particularly described in Section 1.02 and Exhibit B, including all other materials, equipment, systems, structures, features and improvements necessary to produce electric energy and thermal energy, excluding the Site, land rights and interests in land.

"Generating Unit" means one or more generating equipment combinations typically consisting of prime mover(s), electric generator(s), electric transformer(s), steam generator(s) and air emission control devices.

"Generation Operations Center" means the location of Buyer's real-time operations personnel.

"Generator Operator" means the Person that Operates the Generating Facility and performs the functions of supplying electric energy and interconnected operations services within the meaning of 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 the Person that owns the Generating Facility and has registered with the NERC as the Person responsible for complying with all NERC Reliability Standards applicable to the owner of the Generating Facility.

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

"GHG EPS" means the Greenhouse Gas Emissions Performance Standard set forth in D.07-01-039 and in subsequent CPUC rulings implementing D.07-01-039, and any subsequent CPUC-established precondition to the execution of this Agreement (including any precondition set forth in the Settlement Agreement), in each case as in effect as of the Effective Date.

"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 8.02.

"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 (CO_2), methane (CH_4), 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

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[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.

usage, it shall provide Buyer with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Project.

"Greenhouse Gas" or "GHG" means emissions released into the atmosphere of carbon dioxide (CO_2), nitrous oxide (N_2O) and methane (CH_4), which are produced as the result of combustion or transport of fossil fuels. Other greenhouse gases may include hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulfur hexafluoride (SF_6), which are generated in a variety of industrial processes. Greenhouse gases may be defined or expressed in terms of a metric ton of CO_2-equivalent, in order to allow comparison between the different effects of gases on the environment; *provided, however*, that the definition of the term "Greenhouse Gas", as set forth in the immediately preceding sentence, shall be deemed revised to include any update or other change to such term by the CARB or any other Governmental Authority.

"Guarantor" is that certain guarantor of Seller set forth in Section 1.07(b)(i).

"Guarantor Cross Default Amount" is the dollar amount set forth in Section 1.07(b)(iii).

"Guaranty Agreement" means a guaranty agreement substantially in the form of Exhibit O.

"Host Site" means the site at which the Site Host Load is consumed, including real property, facilities and equipment owned or operated by the Site Host or its Related Entities located at such site.

"Hour-Ahead Scheduling Deadline" means 30 minutes before the deadline established by the CAISO for the submission of schedules for the applicable hour.

"IFM" (i.e., the Integrated Forward Market) has the meaning set forth in the CAISO Tariff.

"IFM Load Uplift Obligation" means the obligation of a Scheduling Coordinator to pay its share of unrecovered IFM Bid Costs (as defined in the CAISO Tariff) paid to resources through Bid Cost Recovery (as defined in the CAISO Tariff).

"IFRS" has the meaning set forth in Section 3.20(b)(iii).

"Incipient Event of Default" has the meaning set forth in Section 9.06(a).

"Interconnection Study" means a study prepared by or on behalf of the Transmission Provider or the CAISO to evaluate the impact of the interconnection of the Generating Facility to the Transmission Provider's electric system or the applicable Control Area operator's electric grid.

"Interest Rate" means an annual rate equal to the rate published in *The Wall Street Journal* as the "Prime Rate" (or, if more than one rate is published, the arithmetic mean of such rates) as of the date payment is due plus two percentage points; *provided, however*, that in no event shall the Interest Rate exceed the maximum interest rate permitted by Applicable Laws.

"Inter-SC Trade" means a trade between Scheduling Coordinators of electric energy, Ancillary Service (as defined in the CAISO Tariff), or IFM Load Uplift Obligation in accordance with the CAISO Tariff.

"JAMS" means the Judicial Arbitration and Mediation Services, Inc. or any successor entity.

"kW" means a kilowatt (1,000 watts) of electric capacity or power output.

"kWh" means a kilowatt-hour (1,000 watt-hours) of electric energy.

"LAR" means local area reliability, which is any program of localized resource adequacy requirements established for jurisdictional load serving entities by the CPUC pursuant to the Resource Adequacy Rulings, or by another Local Regulatory Authority having jurisdiction over the load serving entity. LAR may also be known as local resource adequacy, local RAR, or local capacity requirement in other regulatory proceedings or legislative actions.

"LAR Showings" means the LAR compliance showings (or similar or successor showings) a load serving entity is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the Resource Adequacy Rulings, or to a Local Regulatory Authority having jurisdiction over the load serving entity.

"Lease" means one or more agreements whereby Seller leases the Site(s) described in Section 1.02 and Exhibit B from a third party, the term of which lease begins on or before the Term Start Date and extends at least through the Term End Date.

"Lender" means any third-party institution or entity or successor in interest or assignees that either (i) purchases the Generating Facility and then leases it to Seller under a Sale-Leaseback Transaction, or (ii) provides development, bridge, construction, or permanent debt or tax equity financing or refinancing (including an Equity Investment) for the Generating Facility to Seller or credit support in connection with this Agreement.

"Letter of Credit" means an irrevocable, nontransferable standby letter of credit provided by Seller and issued by a U.S. commercial bank or a U.S. branch of a foreign bank with such bank having a Credit Rating of at least (a) "A-" from S&P and "A3" from Moody's, if such entity is rated by both rating agencies, or (b) "A-" from S&P or "A3" from Moody's, if such entity is rated by only one of the ratings agencies, in each case, substantially in the form of Exhibit P. All costs to establish and maintain the Letter of Credit shall be borne by Seller.

"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 fails to maintain a Credit Rating of at least "A-" by S&P and "A3" by Moody's;

(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 such Letter of Credit disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, such Letter of Credit;

(d) Such 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 within 30 days before such Letter of Credit expires or terminates; or

(f) The issuer of such Letter of Credit becomes 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 Agreement.

"LGIA" (i.e., Large Generator Interconnection Agreement or Standard Large Generator Interconnection Agreement) has the meaning set forth in the CAISO Tariff.

"Local Regulatory Authority" has the meaning set forth in the CAISO Tariff.

"Locational Marginal Price" (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), as of the Early Termination Date, resulting from the termination of this Agreement, expressed in dollars and determined in a commercially reasonable manner. Factors used in determining the loss of economic benefit to a Party may include:

(a) Reference to information supplied by one or more third parties, which shall exclude Related Entities 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;

(b) [Intentionally omitted];

(c) Comparable transactions;

(d) Forward price curves based on economic analysis of the relevant markets; and

(e) Settlement prices for comparable transaction at liquid trading hubs (e.g., NYMEX);

All of which should be calculated for the remainder of the Term and must include the value of Related Products. 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.

"Master File" has the meaning set forth in the CAISO Tariff.

"Maximum Potential Energy" means the maximum amount of energy in MWh that the Generating Facility is capable of delivering based upon the lower of (i) PMax and (ii) the capacity available as reported in OMS.

"Mediator" has the meaning set forth in Section 10.02.

"Metered Amounts" means the quantity of electric energy, expressed in kWh, as recorded by (i) the CAISO-Approved Meter(s), which quantity may include compensation factors introduced by the CAISO into the CAISO-Approved Meter(s), or (ii) Check Meter(s), as applicable.

"Metering Interval" means the smallest measurement time period over which data are recorded by the CAISO-Approved Meters or Check Meters.

"Milestone Schedule" means Seller's milestone schedule, the form of which is attached to this Agreement as Exhibit Q.

"Monthly Contract Payment" has the meaning set forth in Section 4.01.

"Monthly RA Capacity Price" (*MRACP*) means the amount in dollars per kW-month, as determined by Buyer and updated annually by an Advice Letter filed by Buyer and approved by the CPUC.

"Monthly Scheduling Fee" is described in Section 4(b) of Exhibit G.

"Moody's" means Moody's Investor Services, Inc.

"MRI-S" means the Market Results Interface – Settlements system operated and maintained by the CAISO as the repository of settlement quality meter data, or any successor thereto.

"MW" means a megawatt (1,000,000 watts) of electric capacity or power output.

"MWh" means a megawatt-hour (1,000,000 watt-hours) of electric energy or power output.

"NERC" means the North American Electric Reliability Corporation, or any successor entity.

"NERC Reliability Standards" means the most recent version of 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 the NERC and approved by the applicable regulatory authorities, which are available at http://www.nerc.com/files/Reliability_Standards_Complete_Set.pdf, or any successor thereto.

"NERC Standards Non-Compliance Penalties" means any and all monetary fines, penalties, damages, interest or assessments by the NERC, the CAISO, the WECC, a Governmental Authority or any Person 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 Report" means the list of resources with corresponding annual Net Qualifying Capacity (NQC) (as defined in the CAISO Tariff) values published by CAISO, or any successor report that Buyer determines accomplishes a similar purpose.

"New Qualifying Facility" means a Qualifying Facility that (i) commenced Parallel Operation for the first time on or after the Effective Date, or (ii) materially modified or repowered on or after the Effective Date.

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

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

"Notice" means notices, requests, statements or payments provided in accordance with Section 9.08 and Exhibit N.

"OMS" means the CAISO Outage Management System.

"Operate" 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 order to produce the Power Product in accordance with Prudent Electrical Practices.

"Operational Characteristics" means the information included under the heading "Operational Characteristics" in Exhibit B.

"Outage" has the meaning set forth in the CAISO Tariff.

"Outage Schedule" has the meaning set forth in Section 2(a) of Exhibit R.

"Outage Schedule Submittal Requirements" describes the obligations of Seller to submit maintenance and Planned Outage schedules (as defined in the CAISO Tariff under WECC rules) to Buyer, as set forth in Exhibit R.

"Parallel Operation" means the Generating Facility's electrical apparatus is connected to the Transmission Provider's system and the circuit breaker at the point of common coupling is closed. The Generating Facility may be producing electric energy or consuming electric energy at such time.

"Participating Intermittent Resource" has the meaning set forth in the CAISO Tariff.

"Party" has the meaning set forth in the Preamble.

"Peak Months" means June, July, August, and September.

"Performance Assurance" means collateral (in the amount of the Performance Assurance Amount) for Seller's performance under this Agreement in the form of cash, Letter(s) of Credit, or the Guaranty Agreement. Performance Assurance is only required to be posted by Seller if the Generating Facility is a New Qualifying Facility.

"Performance Assurance Amount" has the meaning set forth in Section 1.07(a)(ii).

"Performance Tolerance Band Lower Limit" is determined in Section 1 of Exhibit K.

"Performance Tolerance Band Upper Limit" is determined in Section 1 of Exhibit K.

"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 or retire the Generating Facility or to Forecast or deliver the electric energy produced by the Generating Facility to Buyer.

"Person" means an individual, partnership, corporation, business trust, limited liability company, limited liability partnership, joint stock company, trust, unincorporated association, joint venture or other entity or a Governmental Authority.

"PGA" (i.e., Participating Generator Agreement) has the meaning set forth in the CAISO Tariff.

"Physical Trade" has the meaning set forth in the CAISO Tariff.

"Physical Trade Settlement Amount" means the dollar amount calculated in accordance with Exhibit L.

"PIRP" (i.e., Participating Intermittent Resource Program) 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 Buyer determines accomplishes a similar purpose.

"PIRP Forecasting Program" means the rules, protocols, procedures and standards for Participating Intermittent Resources under the CAISO's Eligible Intermittent Resource Protocol, as it may be amended from time to time, as set forth in the CAISO Tariff, or any successor thereto.

"Planned Outage" means the removal of equipment from service availability for inspection and/or general overhaul of one or more major equipment groups. To qualify as a Planned Outage, the maintenance (a) must actually be conducted during the Planned Outage, and in Seller's sole discretion must be of the type that is necessary to reliably maintain the Project, (b) cannot be reasonably conducted during Project operations, and (c) causes the generation level of the Project to be reduced by 1 MW or more.

"PMax" has the meaning set forth in the CAISO Tariff.

"PNode" has the meaning set forth in the CAISO Tariff.

"Power Output" means the average rate of electric energy delivery during one Metering Interval, converted to an hourly rate of electric energy delivery, in kWh per hour, that is equal to the product of Metered Amounts for one Metering Interval, in kWh per Metering Interval, times the number of Metering Intervals in a one-hour period.

"Power Product" means (a) the Contract Capacity and (b) all electric energy produced by the Generating Facility, net of all Station Use and any and all of the Site Host Load.

"Power Product Curtailment" means curtailment of delivery of Product from the Project resulting from (a) curtailment instruction by the CAISO (whether directly or through the Scheduling Coordinator or the Transmission Provider), for any reason, including, but not limited to, an Exceptional Dispatch (as defined in the CAISO Tariff), any System Emergency, any warning of an anticipated System Emergency, or any warning of an imminent condition or situation which could jeopardize the CAISO's or Transmission Provider's electric system integrity or the integrity of other systems to which the CAISO or Transmission Provider is connected, any warning, forecast, or anticipated overgeneration conditions, including a request from CAISO to manage over-generation conditions; (b) curtailment ordered by the Transmission Provider for reasons including, but not limited to, (i) any situation that affects normal function of the electric system including, but not limited to, any abnormal condition that requires action to prevent circumstances such as equipment damage, loss of load, or abnormal voltage conditions, (ii) any warning, forecast or anticipation of conditions or situations that jeopardize the Transmission Provider's electric system integrity or the integrity of other systems to which the Transmission Provider is connected; (c) curtailment ordered by the Transmission Provider as a result of scheduled or unscheduled maintenance or construction on the Transmission Provider's transmission facilities that prevents the delivery or receipt of energy to or at the Delivery Point, (d) curtailment in accordance with Seller's obligations under its interconnection agreement with the Transmission Provider; or (e) curtailment ordered by any Transmission Provider; provided that Seller has contracted for firm transmission or equivalent arrangements with such Transmission Provider for the Product to be delivered to the Delivery Point and 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 Power Product Curtailment shall not include Economic Dispatch Down.

"Power Rating" means the electrical power output value indicated on the generating equipment nameplate.

"PPT" means Pacific Daylight time when California observes Daylight Savings Time and Pacific Standard Time otherwise.

"Primary Fuel" means the fuel or combination of fuels that are provided for in the Permits applicable to the Generating Facility.

"Product" means the Power Product and the Related Products.

"Project" means the Generating Facility.

"Project NQC" has the meaning set forth in Section 1.02(e).

"Project Specifications" means the information included under the heading "Project Specifications" in Exhibit B.

"Prudent Electrical Practices" means those practices, methods and acts that would be implemented and followed by prudent operators of electric 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 at the time a decision was made, could reasonably have been expected to accomplish the desired result consistent with good business practices, reliability and safety.

Prudent Electrical Practices includes, at a minimum, those professionally responsible practices, methods and acts described in the preceding sentence that comply with the manufacturer's warranties, restrictions in this Agreement, and the requirement of Governmental Authorities, WECC standards, the CAISO and Applicable Laws. Prudent Electrical Practices shall include 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, 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 Emergency Conditions whether caused by events on or off the Site;

(c) Preventative, 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 designed and manufactured to meet or exceed the standard of durability that is generally used for electric energy generation operations 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.

"PTSA$_i$" has the meaning set forth in Section 2 of Exhibit L.

"PURPA" means the Public Utility Regulatory Policies Act of 1978, Public Law, 95 617, as amended from time to time.

"PURPA Contract" has the meaning set forth in Recital B.

"QF PGA" (i.e., Qualifying Facility Participating Generator Agreement) has the meaning set forth in the CAISO Tariff.

"QF PPA" has the meaning set forth in Recital D.

"Qualifying Facility" means an electric energy generating facility that:

(a) Complies with the "qualifying cogeneration facility" or "qualifying small power production facility" definition and other requirements (including the requirements set forth in 18 CFR Part 292, Section 292.205) established by PURPA and any FERC rules, as amended from time to time implementing PURPA, as set forth in 18 CFR Part 292, Section 292.203 *et seq*.; and

(b) Has filed with the FERC (i) an application for FERC certification, pursuant to 18 CFR Part 292, Section 292.207(b)(1), which the FERC has granted, or (ii) a notice of self-certification pursuant to 18 CFR Part 292, Section 292.207(a).

"RA Capacity Payment" has the meaning set forth in Section 3 of Exhibit D.

"RAR" means the resource adequacy requirements established for load serving entities by the CPUC pursuant to the Resource Adequacy Rulings, or by a Local Regulatory Authority or other Governmental Authority having jurisdiction.

"RAR Showings" means the RAR compliance showings (or similar or successor showings) a load serving entity is required to make to the CPUC (or, to the extent authorized by the CPUC, to the CAISO), pursuant to the Resource Adequacy Rulings, or to a Local Regulatory Authority having jurisdiction.

"RA Substitute Capacity" has the meaning set forth in the CAISO Tariff.

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

"Real-Time Price" means the Real-Time Market price for Uninstructed Imbalance Energy (as defined in the CAISO Tariff) or any successor price for short-term imbalance energy, as such price or successor price is defined in the CAISO Tariff, that would apply to the Generating Facility, which values are, as of the Effective Date, posted by the CAISO on its website. The values used in this Agreement will be those appearing on the CAISO website on the eighth Business Day of the calendar month following the month for which such prices are being applied.

"Related Entity" means, with respect to a party, any Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with such party. For purposes of this Agreement, "control" means the direct or indirect ownership of 50% or more of the outstanding capital stock or other equity interests having ordinary voting power.

"Related Products" means (i) with respect to Resource Adequacy Benefits (a) that portion of the Resource Adequacy Benefits that are associated with the Contract Capacity, and (b) to the extent that there are Resource Adequacy Benefits associated with the generating capacity of the Generating Facility other than the Contract Capacity, that portion of the Resource Adequacy Benefits that are not associated with the Contract Capacity and that are in excess of those Resource Adequacy Benefits used by Seller or by a Site Host, both in connection with the Host Site, to meet a known and established resource adequacy obligation under any Resource Adequacy Ruling at the point in time when the Resource Adequacy Benefits are to be used, and (ii) any Green Attributes, Capacity Attributes and all other attributes associated with the electric energy or capacity of the Generating Facility (but not including any Financial Incentives) that are in excess of those Green Attributes, Capacity Attributes or other attributes used, or retained for future use, by Seller or a Site Host, both in connection with the Host Site, to meet a known and established, at the point in time when the relevant attribute(s) are to be used or retained, obligation under Applicable Law.

"Renewable Energy Credit" has the meaning set forth in Public Utilities Code Section 399.12(g), as may be amended from time to time or as further defined or supplemented by Applicable Law.

"Resource Adequacy Benefits" means the rights and privileges attached to the Generating Facility that satisfy any Person's Resource Adequacy Obligations and shall include any local, zonal or otherwise locational attributes associated with the Generating Facility.

"Resource Adequacy Obligations" means a Person's resource adequacy obligations, as those obligations are set forth in any Resource Adequacy Rulings.

"Resource Adequacy Resource" has the meaning set forth in the CAISO Tariff.

"Resource Adequacy Rulings" means CPUC Decisions 04 01 050, 04-10-035, 05-10-042, 06-06-024, 06-07-031 and any subsequent CPUC ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, as such CPUC decisions, rulings, laws, rules or regulations may be amended or modified from time to time during the Term.

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

"S&P" means the Standard & Poor's Rating Group.

"Sale-Leaseback Transaction" means a transaction in which Seller (i) sells the Generating Facility to a Lender providing tax equity financing to Seller and (ii) leases the Generating Facility from Lender under an agreement authorizing Seller to act in all matters relating to the control and Operation of the Site and the Generating Facility for the Term, subject to Lender's right to terminate the lease in the event of a default by Seller as set forth in the agreement between Seller and Lender.

"Schedule" means the action of the Scheduling Coordinator, or its designated representatives, of notifying, requesting, and confirming to the CAISO, the CAISO-Approved Quantity of electric energy.

"Scheduled Amount" means the Day-Ahead Schedule comprised of the quantity (in MWh) of electric energy expected to be produced by the Generating Facility that is scheduled from Seller or Seller's Scheduling Coordinator to Buyer in a Physical Trade in the IFM.

"Scheduling Coordinator" means a Person certified by the CAISO for the purposes of undertaking the functions specified in Exhibit G.

"Scheduling Fee" means the Monthly Scheduling Fee and the SC Set-Up Fee.

"SC Replacement Date" has the meaning set forth in Section 7(b) of Exhibit G.

"SC Set-Up Fee" is described in Section 4(a) of Exhibit G.

"SC Trade Settlement Amount" means the amount(s) determined in accordance with Exhibit M.

"SC Trade Tolerance Band" means the greater of (a) three percent of the Scheduled Amount or (b) one MW.

"SDD Adjustment" means the adjustment, if any, to the Monthly Contract Payment, as determined in accordance with Exhibit K.

"SDD Administrative Charge" has the meaning set forth in Section 2 of Exhibit K.

"SEC" means the United States Securities and Exchange Commission, or any successor entity.

"Security Interest" has the meaning set forth in Section 3 of Exhibit F.

"Self-Schedule" has the meaning set forth in the CAISO Tariff.

"Seller" has the meaning set forth in the Preamble.

"Seller's Day-Ahead Forecast" means the most recently updated Forecast submitted by the Day-Ahead Scheduling Deadline.

"Seller's Energy Forecast" means Seller's most recently updated Forecast submitted in accordance with Exhibit I.

"Seller's Final Energy Forecast" means Seller's Energy Forecast as may be updated for Forced Outages that occur after the Hour-Ahead Scheduling Deadline, but not for Ambient Outages.

"Settlement Agreement" has the meaning set forth in Recital D.

"Settlement Effective Date" has the meaning set forth in Recital D.

"Settlement Interval" has meaning set forth in the CAISO Tariff.

"SGIA" (i.e., Small Generator Interconnection Agreement) means the form of Interconnection Request (as defined in the CAISO Tariff) pertaining to a Small Generating Facility (as defined in the CAISO Tariff), which is attached to the CAISO Tariff as Appendix T.

"Simple Interest Payment" means a dollar amount calculated by multiplying the:

(a) Dollar amount on which the Simple Interest Payment is based; by

(b) Federal Funds Effective Rate or Interest Rate as applicable; by

(c) The result of dividing the number of days in the calculation period by 360.

"Site" means the real property on which the Generating Facility is located, as further described in Section 1.02(b) and Exhibit B.

"Site Control" means that Seller (a) owns the Site, (b) is the lessee of the Site under a Lease, (c) is the holder of a right-of-way grant or similar instrument with respect to the Site, or (d) is managing partner or other Person authorized to act in all matters relating to the control and Operation of the Site and Generating Facility.

"Site Description" means the information included under the heading "Site Description" in Exhibit B.

"Site Host" means the Person or Persons purchasing or otherwise using the Site Host Load or thermal energy output from the Generating Facility.

"Site Host Load" means the electric energy and capacity produced by or associated with the Generating Facility that serves electrical loads (that are not Station Use) of Seller or one or more third parties conducted pursuant to California Public Utilities Code Section 218(b).

"Station Use" means the electric energy produced by the Generating Facility that is (a) used within the Generating Facility to power the lights, motors, control systems and other electrical loads that are necessary for Operation, and (b) consumed within the Generating Facility's electric energy distribution system as losses needed to deliver electric energy to the Site Host Load, and (c) consumed within the generator collection system as losses between the generator(s) and the high voltage side of the Generating Facility output transformer(s).

"Successor" has the meaning set forth in Section 3.20(b)(iii).

"Supply Plan" has the meaning set forth in the CAISO Tariff.

"System Emergency" has the meaning set forth in the CAISO Tariff.

"Tariff Rule 21" means the interconnection standards of the Transmission Provider for distributed generation adopted by the CPUC in Decisions 00-11-001 and 00-12-037, as modified by the CPUC.

"Telemetry System" means a system of electronic components that interconnects the CAISO and the Generating Facility in accordance with the CAISO's applicable requirements as set forth in Section 3.09.

"Term" has the meaning set forth in Section 1.01.

"Term End Date" has the meaning set forth in Section 1.01.

"Term Start Date" has the meaning set forth in Section 1.01.

"Term Year" means a 12-month period beginning on the first day of the Term and each successive 12-month period thereafter.

"Termination Payment" has the meaning set forth in Section 6.03.

"TOD Period" means the time of delivery period used to calculate the Monthly Contract Payment set forth in Exhibit D.

"Transmission Provider" means any Person responsible for the interconnection of the Generating Facility with the interconnecting utility's electrical system or the CAISO Controlled Grid or transmitting the Metered Amounts on behalf of Seller from the Generating Facility to the Delivery Point.

"Uninstructed Deviation GMC Rate" means the administrative grid management charge applied by the CAISO to Uninstructed Deviations (as defined in the CAISO Tariff) using the absolute value for the Uninstructed Deviations by Settlement Interval.

"Uninstructed Deviation Penalty" means the penalty set forth in the CAISO Tariff.

"Verification Date" has the meaning set forth in Section 1 of Exhibit C.

"Web Client" has the meaning set forth in Section 2(a) of Exhibit R.

"Web Scheduler" has the meaning set forth in Section 1(b) of Exhibit R.

"WECC" means the Western Electricity Coordinating Council, the regional reliability council for the western United States, northwestern Mexico, and southwestern Canada, or any successor entity.

"WREGIS" means the Western Renewable Energy Generation Information System, or any successor thereto.

**** End of Exhibit A ****

EXHIBIT B
Generating Facility and Site Description

1. Generating Facility Description.

{Buyer Comment: Provide description of the Generating Facility equipment, systems, electric metering and the Seller's measurement of the Useful Thermal Energy Output, control systems and features, including a site plan drawing and a one-line diagram, operational characteristics of the generator and the generator nameplate(s).}

Operational Characteristics

{Drafting Note: Operational Characteristics shall be determined with the assumption that full capacity deliverability status has been obtained for the Project.}

- maximum generation capacity (PMax of the Project): ____MW
- minimum generation capacity (PMin of the Project): ____MW
- minimum dispatchable level (DMin of the Project): ___ MW

{Buyer Comment: The minimum dispatchable level shall be 0 MW unless otherwise demonstrated via certification by a qualified California-licensed professional engineer prior to the Term Start Date. Upon mutual written agreement between the Parties, the Scheduling Coordinator may request that the CAISO modify the Master File for the Project.}

- Ramp Rate: ____MW/Minute
- maximum number of Start-Ups per calendar day (if any such operational limitations exist): _____

Other Requirements:

- Start-Up Time: _____Minutes
- Minimum Run Time after Start-Up (if applicable): _____Minutes
- Minimum Down Time after shut-down (if applicable): _____Minutes

{Drafting Note: Enter the maximum flexibility the Project can offer given the operational constraints of the technology.}

Starts and other Run Time Limitations

Start limitations: _____

Run hour limitations: _____

Project Specifications:

- Project name: _____

- Project Site name: _____
- Project physical address: _____
- Total number of Generating Units at the Project: _____
- Technology type: _____
- Interconnection Point of Project: _____
- Service territory of Project: _____
- Substation: _____
- Description of Generating Units: _____

2. Site Description.

{Buyer Comment: Provide a legal description of the Site, parcel map marked with Generating Facility boundaries, and a Site map showing the relationship of the Site to interconnection point.}

**** End of Exhibit B ****

EXHIBIT C
Procedure for Capacity Verification

1. Seller's Notice of Verification Date.

Seller shall provide at least thirty (30) days prior Notice to Buyer of the date selected by Seller ("Verification Date"), which Verification Date shall be no later than thirty (30) days following the Term Start Date, during which Seller intends to allow Buyer access to the Site and all records or reports to verify the Contract Capacity. Upon Buyer's request, Seller shall make reasonable efforts to reschedule the Verification Date.

2. Verification of Contract Capacity.

Buyer shall complete a physical or virtual site visit (or, at Buyer's sole discretion, waive such a visit) on the Verification 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 Contract Capacity. In order to determine the Contract Capacity, Buyer shall verify the Power Rating of the generating equipment that is installed at the Generating Facility.

**** End of Exhibit C ****

EXHIBIT D (As-Delivered Option)
Monthly Contract Payment Calculation

*{Drafting Note: This entire exhibit is applicable when Seller elects to have its contract payment updated in accordance with the **time of delivery**. This entire exhibit will be deleted if Seller elects to fix contract payment at **time of execution** (per alternative exhibit below).}*

1. Introduction. Each Monthly Contract Payment payable in arrear following the end of each calendar month shall be the sum of all Energy Payments *plus* any RA Capacity Payment for all applicable periods in such month, all as set forth in this Exhibit D.

2. Energy Payment. "Energy Payment" shall be the aggregate amount of the Metered Amounts (in MWh) minus Extra Energy (in MWh) for all hours in a month *multiplied by* each such hour's applicable Day-Ahead Price (in dollars per MWh) at the applicable PNode.

$$\begin{matrix}\text{Energy Payment}\\ \text{in dollars}\end{matrix} = \sum_{\substack{\text{First Settlement}\\ \text{Interval in month}}}^{\substack{\text{Last Settlement}\\ \text{Interval in month}}} \begin{matrix}(\text{Metered Amounts} - \text{Extra Energy})\\ \times \text{Day-Ahead Price}\end{matrix}$$

   (a) The applicable PNode shall be the PNode designated by the CAISO for the Generating Facility, as it may be amended from time to time.

   (b) Seller shall be responsible for and pay all CAISO Charges, and Seller shall be entitled to all CAISO Revenues, with respect to all Extra Energy in any given Settlement Interval.

   (c) Once 120% of the Expected Term Year Energy Production is achieved, no further electric energy payments will be calculated for the remaining months in the current Term Year.

3. RA Capacity Payments.

   (a) Seller is eligible for a RA Capacity Payment only if Buyer is able to apply the entire Project NQC towards Buyer's RAR Showings. For each month that the foregoing condition is met, the "RA Capacity Payment" shall be the sum of (i) Metered Amounts (in MWh) for all hours in a month *multiplied by* (ii) the Hourly Capacity Price (in dollars per MWh) for each such hour as set forth in the most recent Contract Price Advice Letter approved by the CPUC, as determined by Buyer.

$$\text{RA Capacity Payment} = \sum_{\text{First hour in month}}^{\text{Last hour in month}} \begin{matrix}(\text{Metered Amounts}\\ \times \text{Hourly Capacity Price})\end{matrix}$$

(b) Maximum Monthly RA Capacity Payment. Notwithstanding Section 3(a) of Exhibit D, the RA Capacity Payment in any month shall not exceed the amount of the Project NQC for the applicable month (NQC_{month}), in kW, as issued by the CAISO in its Net Qualifying Capacity Report for the applicable year for the Generating Facility, *multiplied by* the Monthly RA Capacity Price (*MRACP*) in dollars per kW-month, as set forth in the capacity price table for Term Year 1 (in dollars per kW-month) of the most recent Contract Price Advice Letter approved by the CPUC, as determined by Buyer.

$$\begin{matrix} Maximum\ Monthly\ RA \\ Capacity\ Payment\ in\ dollars \end{matrix} = NQC_{month} \times MRACP$$

(c) Maximum Hourly RA Capacity Payment. Once Metered Amounts in any hour exceed Contract Capacity *multiplied by* one hour, then no further capacity payments will be calculated for the remaining Metered Amounts for such hour.

EXHIBIT D (As-Executed Option)
Monthly Contract Payment Calculation

*{Drafting Note: This entire exhibit is applicable when Seller elects to have its contract payment fixed at the **time of execution**. This entire exhibit will be deleted if Seller elects to have the contract payment updated at the **time of delivery** (per alternative exhibit above).}*

1. Introduction. Each Monthly Contract Payment payable in arrear following the end of each calendar month shall be the sum of all Energy Payments *plus* any RA Capacity Payments for all applicable periods in such month, all as set forth in this Exhibit D.

2. Energy Payment. "Energy Payment" shall be the aggregate amount of the Metered Amounts (in MWh) minus Extra Energy (in MWh) for all hours in a month *multiplied by* the applicable Contract TOD Energy Price (in dollars per MWh) specified for each TOD Period ($\boldsymbol{CP_{Energy-TOD}}$).

$$\begin{matrix}\text{Energy Payment}\\ \text{in dollars}\end{matrix} = \sum_{\substack{\text{First Settlement}\\ \text{Interval in month}}}^{\substack{\text{Last Settlement}\\ \text{Interval in month}}} (\text{Metered Amounts} - \text{Extra Energy}) \times CP_{Energy-TOD}$$

(a) Time of Delivery Periods. The TOD Periods are as set forth below.

{Drafting Note: This table shall be populated with the most recently CPUC-approved TOD Periods for the PURPA Contract as of the Effective Date.}

TOD Period	Weekdays		Weekends & Holidays*	
	Summer** (Jun – Sep)	Winter (Oct – May)	Summer (Jun – Sep)	Winter (Oct – May)
1 = On-Peak				
2 = Mid-Peak				
3 = Off-Peak				
4 – Super-Off Peak				

*Holidays are New Year's Day (January 1), President's Day (third Monday in February), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (first Monday in September), Veterans Day (November 11), United States Thanksgiving (fourth Thursday in November), and Christmas Day (December 25). When any holiday falls on a Sunday, the following Monday will be recognized as an off-peak period. No change will be made for holidays falling on a Saturday.

**The Summer Season commences at 12:00 a.m. on June 1 and continues until 12:00 a.m. on October 1 of each year.

(b) Contract TOD Energy Price. This Contract TOD Energy Price table shall be used to calculate the Energy Payment. The Contract TOD Energy Price (in dollars per MWh) is unique to this Agreement and specific to the Generating Facility.

{Drafting Note: The prices within this table shall be determined using the methodology described in the most recent Contract Price Advice Letter filed pursuant to the Decision by Buyer for the applicable pricing node of the Generating Facility as of the Effective Date.}

Month	1 - On-Peak	2 - Mid-Peak	3 - Off-Peak	4 - Super-Off-Peak
Jan				
Feb				
Mar				
Apr				
May				
Jun				
Jul				
Aug				
Sep				
Oct				
Nov				
Dec				

(c) Seller shall be responsible for and pay all CAISO Charges and Seller shall be entitled to all CAISO Revenues with respect to all Extra Energy in any given Settlement Interval.

(d) Once 120% of the Expected Term Year Energy Production is achieved, no further electric energy payments will be calculated for the remaining months in the current Term Year**.**

3. RA Capacity Payments.

(a) Seller is eligible for a RA Capacity Payment only if Buyer is able to apply the entire Project NQC towards Buyer's RAR Showings. For each month that the foregoing condition is met, the "RA Capacity Payment" shall be the sum of (i) Metered Amounts (in MWh) for all hours in a month *multiplied by* (ii) the applicable Capacity Price (in dollars per MWh) specified for each TOD Period ($\boldsymbol{P_{Capacity-TOD}}$) set forth in Section 3(b) of this Exhibit D.

$$RA\ Capacity\ Payment\ in\ dollars = \sum_{First\ Hour}^{Last\ Hour} (Metered\ Amounts \times P_{Capacity-TOD})$$

(b) Capacity Price. The applicable "Capacity Price" set forth in the following table shall be used to calculate the RA Capacity Payment. The Capacity Price is unique to this agreement and specific to the Generating Facility.

{Drafting Note: The prices within this table will be populated with values from the most recent Contract Price Advice Letter filed pursuant to the Decision by Buyer as of the Effective Date.}

Month	1 - On-Peak	2 - Mid-Peak	3 - Off-Peak	4 - Super-Off-Peak
Jan				
Feb				
Mar				
Apr				
May				
Jun				
Jul				
Aug				
Sep				
Oct				
Nov				
Dec				

The values shown above shall be multiplied by the Annual Price Escalation Factor for the applicable Term Year shown in Section 3(c) of this Exhibit D. For the avoidance of doubt, the applicable Annual Price Escalation Factor only applies to the Term Year and does not increase the Capacity Prices set forth in the table above.

(c) Maximum Monthly RA Capacity Payment. Notwithstanding Section 3(a) of Exhibit D, the RA Capacity Payment in any month shall not exceed the amount of Project NQC for the applicable month (NQC_{month}) in kW, as issued by the CAISO in its Net Qualifying Capacity Report for the applicable year for the Generating Facility, *multiplied by* the applicable Monthly Capacity Price (*MRACP*) in dollars per kW-month shown in the table below.

$$Maximum\ Monthly\ Capacity\ Payment\ in\ dollars = NQC_{month} \times MRACP$$

{Drafting Note: The prices within this table will be populated with values from the most recent Contract Price Advice Letter filed pursuant to the Decision by Buyer as of the Effective Date. The number of Term Years shall not exceed seven (7) for Existing Qualifying Facilities and twelve (12) for New Qualifying Facilities.}

Term Year	Monthly Capacity Price ($/kW-month)	Annual Price Escalation Factor
1		
2		
3		
4		
5		
6		
7		
[8]		
[9]		
[10]		
[11]		
[12]		

(d) Maximum Hourly RA Capacity Payment. Once Metered Amounts in any hour exceed Contract Capacity *multiplied by* one hour, then no further capacity payments will be calculated for the remaining Metered Amounts for such hour.

**** End of Exhibit D ****

EXHIBIT E

[Intentionally Omitted]

**** End of Exhibit E ****

EXHIBIT F
New Qualifying Facilities Requirements

1. Financial Information.

(a) If requested by Buyer, Seller shall deliver to Buyer the following financial statements, which in all cases shall be for the most recent accounting period and prepared in accordance with GAAP:

(i) Within 120 days following the end of each fiscal year, a copy of Seller's and its Guarantor's 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 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 Seller's and its Guarantor's 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 fiscal year;

provided, however, that if Seller is not an SEC reporting company or if the financial statements required under Sections 1(a)(i) or (ii) of this Exhibit F are not audited financial statements, a Responsible Officer of Seller will certify such financial statements as being in accordance with all Applicable Laws, prepared in accordance with GAAP and fairly stated in all material respects (subject to normal year-end audit adjustments for the quarterly financial statements); *provided further*, that such information must be provided only to those employees of Buyer that need to know such information for financial risk management purposes and may not be disclosed to third parties except as permitted under Section 9.10.

(b) For purposes of the requirement set forth in Section 1(a) of this Exhibit F:

(i) If Seller or its Guarantor's financial statements are publicly available electronically on the website of Seller, its Guarantor or the SEC, then Seller is deemed to have met this requirement; and

(ii) Should any such financial statements not be available on a timely basis due to a delay in preparation or certification, such delay is not an Event of Default so long as Seller diligently pursues the preparation, certification and delivery of the statements.

2. Performance Assurance.

(a) Posting Performance Assurance. On or before the Term Start Date (or within 10 Business Days of any material modification or repowering), Seller shall post Performance Assurance with Buyer and shall maintain the Performance Assurance Amount at all times on and after the Term Start Date until such time as Seller has satisfied all monetary obligations which survive any termination of this Agreement, not to exceed 365 days following the Term End Date.

The Performance Assurance Amount shall be either in the form of cash or Letter of Credit acceptable to Buyer; *provided, however*, that if, as of the Term Start Date, Seller has posted the Development Security in the form of cash or a Letter of Credit and Buyer has either not returned the Development Security to Seller or given Seller Notice, in accordance with this Exhibit F, of its determination regarding the disposition of the Development Security by such date, then Seller may withhold the portion of the Performance Assurance Amount equal to the Development Security or any portion thereof held by Buyer until three Business Days following the later of Seller's receipt or forfeiture of the Development Security or any portion thereof pursuant to Section 4(c) or (e) of this Exhibit F, after which Seller shall be obligated to post the full Performance Assurance Amount. In lieu of cash or a Letter of Credit, Buyer may accept a Guaranty Agreement, in accordance with Section 2(c) of this Exhibit F, from a Guarantor acceptable to Buyer, to satisfy Seller's Performance Assurance obligation.

(b) Letters of Credit. Performance Assurance provided in the form of a Letter of Credit is subject to the following provisions:

(i) Each Letter of Credit must be maintained for the benefit of Buyer;

(ii) Seller shall:

(1) Renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit;

(2) If the bank that issued an outstanding Letter of Credit has indicated its intent not to renew such Letter of Credit, provide alternative Performance Assurance acceptable to Buyer at least 30 days before the expiration of the outstanding Letter of Credit or within five Business Days of such indication by the Bank, whichever is later; and

(3) If the bank issuing a Letter of Credit fails to honor Buyer's properly documented request to draw on an outstanding Letter of Credit, provide alternative Performance Assurance acceptable to Buyer within three Business Day after such refusal;

(iii) Upon, or at any time after, the occurrence of a Letter of Credit Default, Seller shall provide to Buyer either a substitute Letter of Credit or alternative Performance Assurance acceptable to Buyer, in each case on or before the 10th Business Day after the occurrence thereof; and

(iv) Upon the occurrence and continuation of an Event of Default by Seller, or if an Early Termination Date has occurred or been designated as a result of an Event of Default by Seller for which there exist any unsatisfied payment obligations, then Buyer may draw on any undrawn portion of any outstanding Letter of Credit by submitting to the bank issuing such Letter of Credit one or more certificates specifying that such Event of Default or Early Termination Date has occurred and is continuing.

Cash proceeds received by Buyer from drawing upon the Letter of Credit shall be deemed Performance Assurance as security for Seller's obligations to Buyer and Buyer shall have the rights and remedies set forth in Section 3 of this Exhibit F with respect to such cash proceeds.

Notwithstanding Buyer's receipt of cash proceeds of a drawing under the Letter of Credit, Seller shall remain liable for any (1) failure to provide or maintain sufficient Performance Assurance, or (2) any amounts owing to Buyer and remaining unpaid after the application of the amounts so drawn by Buyer.

(v) In all cases, the costs and expenses of establishing, renewing, substituting, canceling, and increasing the amount of a Letter of Credit shall be borne by Seller.

(c) Guaranty Agreement. If Seller's Performance Assurance obligation is satisfied by a Guaranty Agreement, such agreement shall be in the form of Exhibit O executed by the Guarantor identified in Section 1.07(b)(i) or other party, in each case acceptable to Buyer and meeting the Credit Rating requirements for the Guarantor set forth immediately below. The Guarantor shall maintain a Credit Rating of at least:

(i) "BBB-" from S&P and "Baa3" from Moody's, if Guarantor is rated by both ratings agencies; or

(ii) "BBB-" by S&P or "Baa3" by Moody's if Guarantor is rated by only one of the ratings agency.

3. First Priority Security Interest in Cash or Cash Equivalent Collateral. To secure its obligations under this Agreement, and until released as provided herein, Seller grants to Buyer a present and continuing first-priority security interest ("Security Interest") in, and lien on (and right to net against), and assignment of the Development Security (if

applicable), Performance Assurance, any other cash collateral and cash equivalent collateral posted pursuant to Sections 2 and 4 of this Exhibit F and any and all interest thereon or proceeds resulting therefrom or from the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of Buyer, and Seller agrees to take such action as Buyer reasonably requires in order to perfect Buyer's Security Interest in, and lien on (and right to net against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.

Upon or any time after the occurrence of, and during the continuation of, an Event of Default caused by Seller or an Early Termination Date resulting from an Event of Default caused by Seller, Buyer may do any one or more of the following:

(a) Exercise any of its rights and remedies with respect to all Development Security and Performance Assurance, including any such rights and remedies under law then in effect;

(b) Draw on any outstanding Letter of Credit issued for its benefit; and

(c) Liquidate all Development Security and Performance Assurance then held by or for the benefit of Buyer free from any claim or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller.

Buyer 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 (Seller shall remain liable for any amounts owing to Buyer after such application), subject to Buyer's obligation to return any surplus proceeds remaining after such obligations are satisfied in full. Buyer may, in its sole discretion, draw all or any part of such amounts due to it from any form of security to the extent available, and from all such forms, and in any sequence Buyer may select; *provided, however*, that to the extent multiple instruments of credit support are provided by or on behalf of Seller, Buyer shall draw on each such instrument of credit support proportionately based on the maximum aggregate liability under each such instrument, such that, for the avoidance of doubt, Buyer must draw proportionately on all of such outstanding instruments in order to obtain its full claim for payment.

4. Development Security.

(a) Introduction. If Seller is required to post Development Security, such Development Security shall be held by Buyer as security for Seller meeting the Term Start Date until successful completion of Capacity Verification as set forth in Exhibit C and Seller delivers to Buyer the Contract Capacity Confirmation Certificate in accordance with Section 3.13(a), which Capacity Confirmation Certificate must provide that Seller has installed the equipment sufficient to provide the Contract Capacity designated by Seller in Section 1.02(d) on the Effective Date.

(b) Development Security. If Seller is required to post Development Security, Seller shall post such Development Security in accordance with the following terms and conditions:

(i) Seller shall post a development fee (the "Development Security") in the amount of $20 per kW of Contract Capacity on or before the 30th day following the Effective Date. Seller shall post additional Development Security in the amount of $40 per kW of Contract Capacity (for a total posted amount of $60 per kW of Development Security) at the end of the 18th month following the Effective Date. The Development Security shall be held by Buyer and shall be in the form of either a cash deposit or a Letter of Credit; and

(ii) If Seller establishes the Development Security by means of a Letter of Credit, such Letter of Credit shall be substantially in the form of Exhibit P.

(c) Forfeiture of Development Security for Failure to Commence Term by the Term Start Date; Extension of the Term Start Date.

(i) Failure to Meet the Term Start Date. Subject to Seller's right to extend the Term Start Date as provided in Section 4(c)(ii) of this Exhibit F or as a result of a Force Majeure as to which Seller is the Claiming Party (subject to Section 5.03), if the Term does not commence on or before the Term Start Date, Buyer may retain the entire Development Security (if applicable) and, if not already terminated, terminate this Agreement, and neither Party shall have liability for damages for failure to deliver or purchase the Product after the effective date of such termination.

(ii) Daily Delay Liquidated Damages to Extend Term Start Date. Subject to limitations set forth in Section 1.01(a), Seller may elect to delay the Term Start Date by paying to Buyer liquidated damages in an amount equal to one percent of the Development Security per day for each day (or portion thereof) from and including the original Term Start Date to and excluding the actual Term Start Date ("Daily Delay Liquidated Damages").

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

Seller may further extend the Term Start Date beyond the original Term Start Date extension period subject to the same terms applicable to the original Term Start Date extension.

The Daily Delay Liquidated Damages payments applicable to days included in any Term Start Date extension shall be nonrefundable and are in addition to and not to be considered part of the Development Security.

Seller shall 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 Term Start Date was actually extended.

In no event may Seller extend the Term Start Date for more than a total of 180 days by the payment of Daily Delay Liquidated Damages.

(d) Full Return of Development Security. The Development Security shall be returned to Seller in accordance with the following procedure. Subject to Seller commencing the Term by the Term Start Date, as the Term Start Date may have been extended in accordance with Section 4(c)(ii) of this Exhibit F or as a result of a Force Majeure as to which Seller is the Claiming Party (subject to Section 5.03), Seller demonstrates the Contract Capacity on or before the Firm Operation Date as follows:

(i) Successful completion of the Capacity Verification as set forth in Exhibit C; and

(ii) Seller delivers to Buyer the Contract Capacity Confirmation Certificate in accordance with Section 3.13(a), which Contract Capacity Confirmation Certificate must provide that Seller has installed the equipment sufficient to provide the entire Contract Capacity designated by Seller in Section 1.02(d) on the Effective Date.

(e) Deficient Installation of Contract Capacity; Partial Forfeiture and Partial Return of the Development Security. If, on or before the Firm Operation Date, Seller does not demonstrate any portion of the Contract Capacity or only demonstrates a portion of the Contract Capacity based on the Capacity Verification as set forth in Exhibit C or Seller's delivery of the Contract Capacity Confirmation Certificate in accordance with Section 3.13(a), then Seller will only be entitled to a return of the portion of the Development Security posted by Seller equal to the product of either (1) $20 per kW times the kilowatts of Contract Capacity which Seller has demonstrated, if any, if the Term Start Date occurs within 18 months of the Effective Date, or (2) $60 per kW times the kilowatts of Contract Capacity which Seller has demonstrated, if any, if the Term Start Date occurs after the 18th month following the Effective Date.

Seller shall forfeit and Buyer shall be entitled to retain the balance of the Development Security.

In addition, as of the Firm Operation Date, the Performance Assurance Amount for the Performance Assurance required to be posted and maintained pursuant to Section 2 of this Exhibit F shall be calculated using the adjusted Contract Capacity, and any amount of Performance Assurance in excess of that required for the adjusted Contract Capacity shall be returned to Seller.

(f) Seller shall provide Notice to Buyer of its request for a refund of the Development Security.

5. Interest Payments on Cash Deposits.

(a) Buyer shall calculate Simple Interest Payments using the Federal Funds Effective Rate and the cash amounts posted by Seller for the Development Security and Performance Assurance.

(b) Buyer shall pay such Simple Interest Payments concurrently with the return of the cash amounts posted by Seller for the Development Security or Performance Assurance, provided that:

(i) No Event of Default has occurred and is continuing with respect to Seller; and

(ii) No Early Termination Date for which any unsatisfied payment obligation of Seller exists, has occurred or has been designated as the result of an Event of Default by Seller.

(c) On or after the occurrence of an Event of Default by Seller or an Early Termination Date as a result of an Event of Default by Seller, Buyer shall retain any Simple Interest Payment amount as an additional Development Security amount or a Performance Assurance amount hereunder until:

(i) In the case of an Early Termination Date, the obligations of Seller under this Agreement have been satisfied; or

(ii) In the case of an Event of Default, for so long as such Event of Default is continuing.

**** End of Exhibit F ****

EXHIBIT G
Scheduling Coordinator Services

This Exhibit G is only applicable when Buyer is Scheduling Coordinator.

1. Designation of Buyer as Scheduling Coordinator.

   (a) At least 30 days before the Term Start Date, Seller shall take all actions and execute and deliver to Buyer and the CAISO all documents necessary to authorize or designate Buyer as Scheduling Coordinator with the CAISO effective as of the Term Start Date.

   (b) During the Term, unless Seller terminates Buyer as Scheduling Coordinator in accordance with Section 7 of this Exhibit G, Seller may 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, and Seller may not revoke Buyer's authorization to act as Scheduling Coordinator unless agreed to by Buyer.

   (c) Buyer shall submit bids and schedules to the CAISO in accordance with the CAISO Tariff and Seller's QF PGA or PGA, as applicable.

   (d) Buyer shall submit all required notices and updates regarding each Generating Unit's or the Generating Facility's status, as applicable, to the CAISO in accordance with the CAISO procedures.

   (e) Seller is not entitled to any Monthly Contract Payment until Buyer is fully authorized as Scheduling Coordinator for the Generating Facility; *provided, however*, that Buyer may not take, or not refrain from taking, any action if the result would be to delay such authorization.

2. Buyer's Scheduling Responsibilities. Pursuant to the CAISO Tariff, Buyer shall be responsible for the following:

   (a) Submitting all notices and updates required under the CAISO Tariff and Applicable Laws regarding each Generating Unit's or the Generating Facility's status, as applicable, to the CAISO;

   (b) [Intentionally omitted.]

   (c) Submitting the adjusted Forecasts to the CAISO as Scheduling Coordinator Schedules (as defined in the CAISO Tariff); and

   (d) Receiving notification of the final schedules from the CAISO.

3. [Intentionally omitted.]

4. Scheduling Fees. In accordance with Section 4.02, Buyer shall invoice to Seller and Seller shall pay to Buyer the following Scheduling Fees:

   (a) SC Set-Up Fee. The SC Set-Up Fee is equal to the costs Buyer incurs as a result of the Generating Units or the Generating Facility registration, as applicable, as well as installation, configuration, and testing of all equipment and software necessary, in Buyer's sole discretion, to Schedule the Generating Unit or the Generating Facility, as applicable, in accordance with the CAISO Tariff. Buyer's invoice to Seller shall provide a detailed accounting of all costs and charges encompassed in the SC Set-Up Fee, including separate line items for registration charges, equipment costs, software costs, and labor costs (including hourly rate if applicable) itemized for registration, equipment installation, configuration, testing and software related charges. Buyer estimates that the SC Set-up Fee for this Agreement will equal $[Amount].

   (b) Monthly Scheduling Fee. The Monthly Scheduling Fee will be as forth in the following table.

Contract Capacity (kW)	**Monthly Scheduling Fee**
Less than 10,000	$2,500
10,000 – 20,000	$5,000

5. CAISO Settlements. As Scheduling Coordinator, Buyer shall be responsible for all settlement functions with the CAISO related to the Generating Units or the Generating Facility, as applicable. Seller shall cooperate with Buyer in Buyer's performance of any settlement functions, and Seller shall promptly deliver to Buyer, or provide Buyer access to, all Generating Unit or the Generating Facility, as applicable, data necessary for CAISO settlements and any correspondence or communications with CAISO related to the Generating Units or the Generating Facility, as applicable, including any invoices or settlement data, in the mutually agreed upon format reasonably requested by Buyer.

   Seller shall pay the amount of all CAISO Charges on or before the later of the 20th day of each month. If Seller fails to pay a CAISO Charge within such timeframe, Buyer may offset any amounts owing to it for such CAISO Charge as set forth in Section 4.02.

6. Disputes and Adjustments of CAISO Charges. The Parties agree that all CAISO Charges are subject to the CAISO Tariff and may be adjusted by the CAISO, or disputed by Buyer, as Scheduling Coordinator, in accordance with the CAISO Tariff. The Parties agree that all CAISO Charges are subject to dispute between the Parties in accordance with this Agreement. Notwithstanding anything to the contrary contained in this Agreement, the Parties agree that the obligations under this Exhibit G with respect to the payment of CAISO Charges, or the adjustment of such CAISO Charges, shall survive the

expiration or termination of this Agreement for a period of 365 days beyond the time period which CAISO may adjust, modify or change any previously issued invoice, or any charges or revenues set forth on such invoice pursuant to the CAISO Tariff.

7. Terminating Buyer's Designation as Scheduling Coordinator.

(a) Seller may terminate Buyer as Scheduling Coordinator:

(i) In accordance with Section 7(b) of this Exhibit G; or

(ii) If Buyer materially fails to fulfill its obligations as Scheduling Coordinator and:

(1) Seller provides advance Notice to Buyer setting forth in reasonable detail the nature of such failure and such failure is not remedied within 30 days after such Notice; *provided, however*, that if such failure is not reasonably capable of being remedied within such 30-day period, Buyer shall have such additional time (not to exceed 120 days) as is reasonably necessary to remedy such failure, so long as Buyer promptly commences and diligently pursues such remedy;

(2) Seller (A) submits to the CAISO a designation of a new Scheduling Coordinator to replace Buyer effective as of the date of Buyer's termination as Scheduling Coordinator, and (B) causes its newly designated Scheduling Coordinator to submit a letter to the CAISO accepting the designation; and

(3) The Parties will take any other action necessary to terminate the designation of Buyer as Scheduling Coordinator, including amending this Agreement; or

(iii) [Intentionally omitted.]

(b) At least 30 days before the expiration of the Term or as soon as an Early Termination Date is declared (regardless of which Party declared it), the Parties will take all actions necessary to terminate the designation of Buyer as Scheduling Coordinator as of 11:59 p.m. PPT on the Term End Date ("SC Replacement Date"). Such actions include the following:

(i) Seller shall:

(1) Submit to the CAISO a designation of a new Scheduling Coordinator to replace Buyer effective as of the SC Replacement Date; and

(2) Cause its newly designated Scheduling Coordinator to submit a letter to the CAISO accepting the designation; and

(ii) Buyer shall submit a letter to the CAISO resigning as Scheduling Coordinator effective as of the SC Replacement Date.

(c) Seller bears sole responsibility for locating, selecting, and reaching agreement on terms with any replacement Scheduling Coordinator.

**** End of Exhibit G ****

EXHIBIT H
Milestone Progress Reporting Form

1. Introduction. This Exhibit H is only applicable if the Generating Facility is a New Qualifying Facility.

   Seller shall prepare a written milestone progress report as set forth in Section 3.11 on its progress relative to the:

   (a) Installation of the CAISO-Approved Meters and Telemetry System;

   (b) Installation of the Telemetry System as required by the CAISO Tariff; and

   (c) Work on other agreements with the CAISO and the Transmission Provider.

2. Format. The report must be sent via e-mail in the form of a single Adobe Acrobat file or facsimile to Buyer's Contract Administrator, as noted in Exhibit N, on the fifth Business Day of each month. Each such milestone progress report must include the following items:

   (a) Cover page;

   (b) Brief Generating Facility description;

   (c) Site plan of the Generation Facility;

   (d) Description of any planned changes to the Generating Facility and Site Description in Exhibit B;

   (e) Bar chart schedule showing progress on achieving the Milestone Schedule;

   (f) PERT or GANT chart showing critical path schedule of major items and activities;

   (g) Summary of activities during the previous month;

   (h) Forecast of activities scheduled for the current month;

   (i) Written description about the progress relative to the Milestone Schedule;

   (j) List of issues that could potentially impact the Milestone Schedule;

   (k) Enumeration and schedule of any support or actions requested of Buyer;

   (l) Progress and schedule of all material agreements, contracts, Permits, approvals, technical studies, financing agreements and major equipment purchase orders showing the start dates, completion dates, and completion percentages; and

   (m) List of items required under Section 3.11.

**** End of Exhibit H ****

EXHIBIT I
Seller's Forecasting Requirements

1. General Requirements. The Parties shall abide by the Forecasting 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 the CAISO Tariff;

   (b) Accommodate changes to their respective generation technology and organizational structure; and

   (c) Address changes in the Operating and Scheduling procedures of Seller, Buyer and the CAISO, including automated Forecast and outage submissions.

2. Seller's Forecasting Submittal Requirements for all Generating Facilities.

   (a) 30-Day Forecast.

   No later than 30 days before the Term Start Date (or, in the case of a New Qualifying Facility no later than 30 days before the commencement of Parallel Operation), Seller shall provide Buyer with a Forecast for the 30-day period commencing on the start of the Term (or, if applicable, Parallel Operation) using the Web Client.

   In the case of a New Qualifying Facility, if, after submitting the Forecast pursuant to this Section 2(a), Seller learns that Parallel Operation will occur on a date and time other than that reflected on the Forecast, Seller shall provide an updated Forecast reflecting the new Parallel Operation date at the earliest practicable time but no later than 5:00 p.m. PPT on the Wednesday before the new Parallel Operation date, if Seller has learned of the new Parallel Operation date by that time, but in no event less than three Business Days before the new Parallel Operation date.

   If the Web Client becomes unavailable, Seller shall provide Buyer with the Forecast by e-mail or by telephoning Buyer's Generation Operations Center, at the e-mail address or telephone number(s) listed in Exhibit N.

   The Forecast, and any updated Forecasts provided pursuant to this Section 2, shall:

   (i) Reflect the Expected Energy at the CAISO-Approved Meter; and

   (ii) Limit hour-to-hour Forecast changes to no less than 250 kWh 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.

(b) Weekly Update to 30-Day Forecast. Commencing on or before 5:00 p.m. PPT of the Wednesday before the first week covered by the Forecast provided pursuant to Section 2(a) of this Exhibit I, and on or before 5:00 p.m. PPT every Wednesday thereafter until the Term End Date, Seller shall update the Forecast for the 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 Buyer with the weekly Forecast update by e-mailing or telephoning Buyer's Generation Operations Center, at the e-mail address or telephone number(s) listed in Exhibit N.

(c) Day-Ahead Forecast.

(i) If the Generating Facility is not PIRP certified: Seller or Seller's agent shall provide a binding Forecast of the Generating Facility's hourly energy deliveries for the following day (the "Day-Ahead Forecast") to the Scheduling Coordinator via Buyer's Web Client, as set forth in this Exhibit I, for each day, by the Day-Ahead Scheduling Deadline. Each Day-Ahead Forecast shall clearly identify, for each hour, Seller's forecast of all amounts of energy forecasted to be generated by the Generating Facility and measured at the CAISO-Approved Meter pursuant to this Agreement. If the Day-Ahead Forecast changes by at least one (1) MWh after the Day-Ahead Scheduling Deadline, Seller shall send a revised notice to Buyer's Web Client as set forth in this Exhibit I.

If Seller fails to provide Buyer with a Day-Ahead Forecast as required herein, then, until Seller provides such Day-Ahead Forecast, Buyer may rely on the most recent Day-Ahead Forecast submitted by Seller to Buyer.

(ii) If the Generating Facility is PIRP certified: Seller's Day-Ahead Forecast shall be equal to the forecast of the energy to be produced by the Project prepared by the CAISO or its agent in accordance with the PIRP Forecasting Program and communicated to the Scheduling Coordinator, which forecast is the last such forecast prepared by the CAISO that does not reflect curtailed production as a result of Economic Dispatch Down periods. If such a forecast is not available, Seller shall be required to comply with Section 2(c)(i) of this Exhibit I, whether or not the Generating Facility is PIRP certified.

(d) Further Update to Day-Ahead Forecast. As soon as reasonably practicable and commensurate with Seller's knowledge, Seller shall provide Forecast updates related to Buyer's Scheduled daily, hourly and real-time deliveries from the Generating Facility for any cause, including changes in Site ambient conditions or a Forced Outage, any of which results in a material change to the Generating Facility's deliveries (whether in part or in whole). This updated Forecast pursuant to this Exhibit I must be submitted to Buyer via the Web Client by no later than

the Hour-Ahead Scheduling Deadline, if the change is known to Seller at that time.

Seller's updated Forecast must contain the following information:

a. The beginning date and time of the event resulting in the availability of the Generating Facility and expected electric energy production change;

b. The expected ending date and time of the event:

c. The expected electric energy production, in MWh; and

d. Any other information required by the CAISO as communicated to Seller by Buyer.

**** End of Exhibit I ****

EXHIBIT J
CAISO Charges

If at any time after the Term Start Date Buyer is not Scheduling Coordinator for the Generating Facility, then Buyer will not be responsible for any CAISO Charges. If at any time after the Term Start Date Buyer is Scheduling Coordinator for the Generating Facility, then, other than with respect to Availability Incentive Payments and Non-Availability Charges (allocation of which is set forth in Section 3.22 of this Agreement), Buyer shall pay all CAISO Charges and receive all CAISO Revenues; *provided, however*, if at any time after the Term Start Date:

1. The CAISO implements or has implemented any sanction or penalty related to Scheduling, outage reporting or generator Operation, and any such sanctions or penalties are imposed on the Generating Facility or to Buyer as Scheduling Coordinator for the Generating Facility due solely to the actions or inactions of Seller, then such sanctions or penalties will be Seller's responsibility;

2. Seller or any third party dispatches any portion of the Contract Capacity for the benefit of any party other than Buyer or a Site host in respect of the Host Site, then Seller shall indemnify, defend, and hold Buyer harmless against any CAISO Charges (except to the extent such CAISO Charges result from the fault or negligence of Buyer in its role as Scheduling Coordinator);

3. Seller does not comply with:

   (a) The requirements set forth in Section 3.15; or

   (b) Seller's obligation associated with any CAISO or Transmission Provider notice or instruction (as may be communicated by Buyer as Scheduling Coordinator) to (i) increase output to the Contract Capacity during a System Emergency or an Emergency Condition, or (ii) reschedule a Planned Outage set to occur during a System Emergency or an Emergency Condition, then

   Seller shall indemnify, defend, and hold Buyer harmless against any CAISO Charges associated with any failure set forth in Sections 3(a) or 3(b) of this Exhibit J (except to the extent such CAISO Charges result from the fault or negligence of Buyer in its role as Scheduling Coordinator); or

4. If the Generating Facility is eligible to be PIRP certified, but is not so certified as a PIRP resource for any reason, then Seller shall indemnify, defend, and hold Buyer harmless against all CAISO Charges associated with the electric energy generated and delivered from the Generating Facility.

If any of Sections 1 through 4 of this Exhibit J apply and the Generating Facility is subject to an Uninstructed Deviation Penalty, Seller will not be required to pay the SDD Adjustment and, instead, shall be responsible for all applicable Uninstructed Deviation Penalty and imbalance energy charges for the Generating Facility.

**** End of Exhibit J ****

EXHIBIT K
Scheduling and Delivery Deviation Adjustments

If Buyer is Scheduling Coordinator for the Generating Facility and if the Generating Facility is not PIRP certified, then Seller or Buyer, as the case may be, shall be responsible for the following SDD Adjustments with respect to the Generating Facility:

1. SDD Energy Adjustment. A SDD Adjustment will be calculated for each Settlement Interval in a month if the Metered Amounts is either (a) less than the Performance Tolerance Band Lower Limit in any Settlement Interval or (b) greater than the Performance Tolerance Band Upper Limit in any Settlement Interval. When the SDD Adjustment is negative, Seller shall make a payment to Buyer and when the SDD Adjustment is positive, Seller shall receive a credit from Buyer. The SDD Adjustment is calculated as follows:

   If A < D, then SDD Adjustment = (D – A) x (EP – P)

   or

   If A > E, then SDD Adjustment = (A – E) x (P – EP)

   Otherwise, the SDD Adjustment = 0

   where:

   A = Metered Amounts for the Settlement Interval, which Metered Amounts shall be capped based upon the Contract Capacity;

   B = Seller's Day-Ahead Forecast based on the hourly forecasts made pursuant to Exhibit I corresponding to the Settlement Interval;

   C = Performance Tolerance Band = One (1) MWh divided by the number of Settlement Intervals in such hour;

   D = Performance Tolerance Band Lower Limit = (B – C);

   E = Performance Tolerance Band Upper Limit = (B + C);

   EP = [Day-Ahead Price applicable to the Settlement Interval, as specified in Section 2 of Exhibit D]; and

   {Drafting Note: Use this formulation if Exhibit D (As-Delivered Option) is chosen.}

   [Contract TOD Energy Price applicable to the Settlement Interval, as specified in Section 2 of Exhibit D]; and

   {Drafting Note: Use this formulation if Exhibit D (As-Executed Option) is chosen.}

P = Real-Time Price for the Generator's PNode as published by the CAISO on OASIS for the Settlement Interval.

2. SDD Administrative Charge. Seller shall make a payment to Buyer (the "SDD Administrative Charge") for each Settlement Interval in a month if Metered Amounts (i) exceeds the Performance Tolerance Band Upper Limit or (ii) is less than the Performance Tolerance Band Lower Limit, in any Settlement Interval. The SDD Administrative Charge is calculated as follows:

If A > (B + C) or A < (B – C), then:

SDD Administrative Charge = (Absolute Value (B – A) – C) x Uninstructed Deviation GMC Rate.

Otherwise, the SDD Administrative Charge = 0.

**** End of Exhibit K ****

EXHIBIT L
Physical Trade Settlement Amount

This Exhibit L is only applicable when Buyer is not Scheduling Coordinator.

1. Physical Trades Cleared in the IFM. The CAISO Revenue credited to Buyer's account by CAISO as a result of a Physical Trade having cleared in the IFM shall be for Buyer's account.

2. Physical Trades not Cleared in the IFM. With respect to each calendar month "m", as soon as practicable after the end of such month, Buyer shall calculate the Physical Trade Settlement Amount ("$PTSA_i$") for each hour as follows:

$$PTSA_i = CPT_i \times (CPTP_i - PNode_i)$$

Where:

i	=	an hour within month "m"
CPT	=	Converted Physical Trade, in MWh
CPTP	=	Converted Physical Trade Price, and
PNode	=	the Generating Facility's PNode price, in dollars per MWh.

If the $PTSA_i$ is positive *and* Seller submitted the original Physical Trade in accordance with Section 3.14(s)(ii), then Buyer shall owe Seller the $PTSA_m$ for month m. In any event the $PTSA_i$ is negative, however, then Seller shall owe Buyer the $PTSA_i$.

**** End of Exhibit L ****

EXHIBIT M
SC Trade Settlement Amount

This Exhibit M is only applicable when Buyer is not Scheduling Coordinator.

If, in any Settlement Interval, a Generating Facility's Scheduled Amount differs from the Generating Facility's Metered Amounts by more than the SC Trade Tolerance Band, then Seller shall be subject to a payment adjustment calculated by Buyer in accordance with the procedures and formulas set forth below.

1. Under-Scheduling Adjustment.

   If during any Settlement Interval the Scheduled Amount plus the SC Trade Tolerance Band is less than the Metered Amounts, and the Real-Time Price is greater than the Day-Ahead Price payable during the Settlement Interval, then Seller's monthly payment amount shall be reduced by each Under-Scheduling Settlement Interval Adjustment Amount calculated by the following formula:

   UNDER-SCHEDULING SETTLEMENT INTERVAL ADJUSTMENT AMOUNT =

   [A – B] x [D – C]

   Where A = The Metered Amounts in the Settlement Interval being calculated.

   B = The Scheduled Amount in the Settlement Interval being calculated.

   C = Day-Ahead Price for the Settlement Interval being calculated in $/kWh.

   D = Real-Time Price for the Settlement Interval being calculated in $/kWh.

   No under-scheduling adjustment shall be assessed against Seller for a Settlement Interval in which the Scheduled Amount plus the SC Trade Tolerance Band is less than the Metered Amounts if, during such Settlement Interval, the Real-Time Price is equal to or less than the Day-Ahead Price payable during the Settlement Interval.

2. Over-Scheduling Adjustment.

   If during any Settlement Interval the Scheduled Amount is greater than the SC Trade Tolerance Band plus the Metered Amounts, and the Real-Time Price is less than the Day-Ahead Price payable during the Settlement Interval;

   Then Seller's monthly payment amount shall be reduced by each Over-Scheduling Settlement Interval Adjustment Amount calculated by the following formula:

OVER-SCHEDULING SETTLEMENT INTERVAL ADJUSTMENT AMOUNT =

[B – A] x [C – D]

Where A = The Metered Amounts in the Settlement Interval being calculated.

B = The Scheduled Amount in the Settlement Interval being calculated.

C = Day-Ahead Price for the Settlement Interval being calculated in $/kWh.

D = Real-Time Price for the Settlement Interval being calculated in $/kWh.

No over-scheduling adjustment shall be assessed against Seller for a Settlement Interval in which the Scheduled Amount is greater than the SC Trade Tolerance Band plus the Metered Amounts if, during such Settlement Interval, the Real-Time Price is greater than or equal to the Day-Ahead Price payable during the Settlement Interval.

3. Negative Day-Ahead Price Adjustment.

If during any Settlement Interval the Day-Ahead Price is negative, then Seller's monthly payment amount shall be reduced by the following formula (the calculations in Sections 1 and 2 of this Exhibit M will not apply when the Day-Ahead Price is negative):

NEGATIVE DAY-AHEAD PRICE ADJUSTMENT AMOUNT = B x C

Where B = The Scheduled Amount in the Settlement Interval being calculated.

C = The absolute value of the Day-Ahead Price for the Scheduling Interval being calculated in $/kWh.

4. Negative Real-Time Price Adjustment.

If during any Settlement Interval the Real-Time Price is negative and the Scheduled Amount is greater than zero, then Seller's monthly payment amount shall be adjusted by each Negative Real-Time Price Interval Adjustment Amount calculated by the following formula (the calculations in Sections 1 and 2 of this Exhibit M will not apply when the Real-Time Price is negative):

NEGATIVE REAL-TIME PRICE INTERVAL ADJUSTMENT AMOUNT =

[B – A] x D – [A x C]

Where A = The Metered Amounts in the Settlement Interval being calculated.

B = The Scheduled Amount in the Settlement Interval being calculated.

C = The absolute value of the Real-Time Price for the Settlement Interval being calculated in $/kWh.

D == The Contract TOD Energy Price in $/kWh for the applicable month for contracts using the At-Execution price and the applicable Day-Ahead Price in $/kWh for contracts using the As-Delivered price.

If the foregoing Negative Real-Time Price Interval Adjustment Amount is positive, then Seller shall be paid the result of the immediately preceding formula and if the Negative Real-Time Price Interval Adjustment Amount is negative, then Seller's monthly payment shall be reduced by the result of the immediately preceding formula.

**** End of Exhibit M ****

EXHIBIT N
Notice List

Seller's Name: [SELLER'S NAME]	Buyer's Name: [BUYER'S NAME]
All Notices are deemed provided in accordance with Section 9.08 if made to the address or e-mail addresses provided below:	All Notices are deemed provided in accordance with Section 9.08 if made to the address or e-mail addresses provided below:
Contract Sponsor: Attn: Street: City: Phone: E-mail:	Contract Sponsor: Attn: Street: City: Phone: E-mail:
Reference Numbers: Duns: Federal Tax ID Number:	Reference Numbers: Duns: Federal Tax ID Number:
Contract Administration: Attn: Phone: E-mail:	Contract Administration: Attn: Phone: E-mail:
Forecasting: Attn: [Control Room] Phone: E-mail:	Forecasting: Attn: Phone: E-mail:
Day-Ahead Forecasting: Phone: E-mail:	Day-Ahead Forecasting: Phone: E-mail:
Real-Time Forecasting: Phone: E-mail:	Real-Time Forecasting: Phone: E-mail:
Payment Statements: Attn: Phone: E-mail:	Payment Statements: Attn: Phone: E-mail:

CAISO Charges and CAISO Sanctions: Attn: Phone: E-mail:	CAISO Charges and CAISO Sanctions: Attn: Phone: E-mail:
Payments: Attn: Phone: E-mail:	Payments: Attn: Phone: E-mail:
Economic Dispatch Down: Attn: Phone: E-mail:	Economic Dispatch Down: Attn: Phone: E-mail:
Wire Transfer: BNK: ACCT Title: ABA: ACCT:	Wire Transfer: BNK: ACCT Title: ABA: ACCT:
Credit: Attn: Phone: E-mail:	Credit: Attn: Phone: E-mail:
With additional Notices of an Event of Default or Potential Event of Default to: Attn: Phone: E-mail:	With additional Notices of an Event of Default or Potential Event of Default to: Attn: Phone: E-mail:
Guarantor: Attn: Phone: E-mail:	N/A
Lender: Attn: Phone: E-mail:	N/A

**** End of Exhibit N ****

EXHIBIT O
Form of Guaranty Agreement

1. Guaranty. For valuable consideration, _____*[Guarantor's legal name]*___, _____*[legal status]*_ ("Guarantor") guarantees payment to _____*[Buyer's legal name]*_, a California corporation ("Beneficiary"), its successors and assigns, of all amounts owed to Beneficiary by _____*[Seller's legal name]*_, _____*[legal status]*_ ("Principal") under that certain Power Purchase and Sale Agreement between Beneficiary and Principal dated _____*[date]*_, as amended from time to time ("Agreement") (said amounts are hereinafter referred to as the "Obligations").

   Initially capitalized words that are used but not otherwise defined in this agreement ("Guaranty") shall have the meanings given them in the Agreement.

   Upon the failure or refusal by Principal to pay all or any portion of the Obligations, the Beneficiary may make a demand upon the Guarantor.

   Such demand shall be in writing and shall state the amount Principal has failed to pay and an explanation of why such payment is due, that all cure periods have expired, and with a specific statement that Beneficiary is calling upon Guarantor to pay under this Guaranty.

   Guarantor shall promptly, but in no event less than ten Business Days following demand by Beneficiary, pay such Obligations in immediately available funds.

   The obligations of Guarantor hereunder is not subject to any counterclaim, setoff, withholding, or deduction unless required by applicable law.

   A payment demand satisfying the foregoing requirements shall be deemed sufficient notice to Guarantor that it must pay the Obligations.

2. Guaranty Limit. Subject to Paragraph 13, the liability of Guarantor hereunder may not exceed $_____ in the aggregate, which amount shall include all interest that has accrued on any amount owed hereunder.

3. Guaranty Absolute. Guarantor agrees that its obligations under this Guaranty are irrevocable, absolute, independent and unconditional and is not affected by any circumstance which constitutes a legal or equitable discharge of a guarantor. In furtherance of the foregoing and without limiting the generality thereof, Guarantor agrees as follows:

   (a) The liability of Guarantor under this Guaranty is a continuing guaranty of payment and not of collectability, and is not conditional or contingent upon the genuineness, validity, regularity or enforceability of the Agreement or the pursuit by Beneficiary of any remedies which it now has or may hereafter have under the Agreement;

(b) Beneficiary may enforce this Guaranty upon the occurrence of a default by Principal under the Agreement notwithstanding the existence of a dispute between Beneficiary and Principal with respect to the existence of the default;

(c) The obligations of Guarantor under this Guaranty are independent of the obligations of Principal under the Agreement and a separate action or actions may be brought and prosecuted against Guarantor whether or not any action is brought against Principal or any other guarantors and whether or not Principal is joined in any such action or actions;

(d) Beneficiary may, at its election, foreclose on any security held by Beneficiary, or exercise any other right or remedy available to Beneficiary without affecting or impairing in any way the liability of Guarantor under this Guaranty, except to the extent the amount(s) owed to Beneficiary by Principal have been paid; and

(e) Guarantor shall continue to be liable under this Guaranty and the provisions hereof shall remain in full force and effect notwithstanding:

(i) Any modification, amendment, supplement, extension, agreement or stipulation between Principal and Beneficiary or their respective successors and assigns, with respect to the Agreement or the obligations encompassed thereby;

(ii) Beneficiary's waiver of or failure to enforce any of the terms, covenants or conditions contained in the Agreement;

(iii) Any release of Principal or any other guarantor from any liability with respect to the Obligations or any portion thereof;

(iv) Any release, compromise or subordination of any real or personal property then held by Beneficiary as security for the performance of the Obligations or any portion thereof, or any substitution with respect thereto;

(v) Without in any way limiting the generality of the foregoing, if Beneficiary is awarded a judgment in any suit brought to enforce a portion of the Obligations, such judgment is not deemed to release Guarantor from its covenant to pay that portion of the Obligations which is not the subject of such suit;

(vi) Beneficiary's acceptance and/or enforcement of, or failure to enforce, any other guaranties or any portion of this Guaranty;

(vii) Beneficiary's exercise of any other rights available to it under the Agreement;

(viii) Beneficiary's consent to the change, reorganization or termination of the corporate structure or existence of the Principal and to any corresponding restructuring of the Obligations;

(ix) Any failure to perfect or continue perfection of a security interest in any collateral that secures the Obligations;

(x) [Intentionally omitted;] and

(xi) Any other act or thing or omission, or delay to do any other act or thing that might in any manner or to any extent vary the risk of Guarantor as an obligor with respect to the Obligations.

(f) Guarantor agrees that upon a demand for payment under this Guaranty in accordance with Section 1 hereof, Guarantor shall pay such Obligations as are included in such demand notwithstanding any defenses, setoffs or counterclaims that Principal may allege or assert against Beneficiary with respect to the Obligations, including without limitation statute of frauds and accord and satisfaction; provided that Guarantor reserves the right to assert any defenses, setoffs or counterclaims that Principal may allege or assert against Beneficiary (except for such defenses, setoffs or counterclaims as are expressly waived under other provisions of this Guaranty) in a subsequent action for recoupment, restitution or reimbursement.

4. Termination; Reinstatement.

(a) The term of this Guaranty is continuous until the Term End Date, *provided however*, the termination of this Guaranty shall not release Guarantor from liability for any Obligations arising prior to the Term End Date.

(b) This Guaranty shall be reinstated if at any time following the termination of this Guaranty, any payment by Guarantor under this Guaranty or pursuant hereto is rescinded or must otherwise be returned by the Beneficiary or other person upon the insolvency, bankruptcy, reorganization, dissolution or liquidation of Principal, Guarantor or otherwise, and is so rescinded or returned to the party or parties making such payment, all as though such payment had not been made.

If all or any portion of the Obligations are paid by Principal, the obligations of Guarantor hereunder shall continue and remain in full force and effect or be reinstated, as the case may be, in the event that all or any part of such payment(s) are rescinded or recovered directly or indirectly from Beneficiary as a preference, fraudulent transfer or otherwise, and any such payments which are so rescinded or recovered shall constitute Obligations for all purposes under this Guaranty.

5. Bankruptcy. So long as any Obligations remain outstanding, Guarantor may not, without the prior written consent of Beneficiary, commence or join with any other person in commencing any bankruptcy, reorganization or insolvency proceedings of or against Principal. The obligations of Guarantor under this Guaranty may not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of the Principal or by any defense which Principal may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding.

6. Subrogation. Guarantor shall be subrogated to all rights of the Beneficiary against Principal with respect to any amounts paid by the Guarantor pursuant to the Guaranty, provided that Guarantor postpones the exercise of such rights until all Obligations have been irrevocably paid in full to the Beneficiary.

   If any amount is paid to Guarantor on account of such subrogation, reimbursement, contribution or indemnity rights at any time when all the Obligations guaranteed hereunder have not been indefeasibly paid in full, Guarantor shall hold such amount in trust for the benefit of Beneficiary (provided that no fiduciary duty shall be deemed to arise in connection herewith) and shall promptly pay such amount to Beneficiary.

7. [Intentionally omitted.]

8. Waivers of Guarantor.

   (a) [Intentionally omitted.]

   (b) Guarantor waives any right to require Beneficiary to proceed against or exhaust any security held from Principal or any other party acting under a separate agreement.

   (c) Guarantor waives all of the rights and defenses described in subdivision (a) of Section 2856 of the California Civil Code, including any rights and defenses that are or may become available to the Guarantor by reason of Sections 2787 to 2855 thereof, inclusive. Without limiting the generality of the foregoing waiver:

      (i) The Guarantor waives all rights and defenses that the Guarantor may have because the Principal's Obligations are secured by real property.

         This means, among other things:

         a. The Beneficiary may collect from the Guarantor without first foreclosing on any real or personal property collateral pledged by the Principal.

b. If the Beneficiary forecloses on any real property collateral pledged by the Principal:

(1) The amount of the Obligation may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price.

(2) The Beneficiary may collect from the Guarantor even if the Beneficiary, by foreclosing on the real property collateral, has destroyed any right the Guarantor may have to collect from the Principal.

This is an unconditional and irrevocable waiver of any rights and defenses the Guarantor may have because the Principal's Obligations are secured by real property. These rights and defenses include, but are not limited to, any rights or defenses based upon Section 580a, 580b, 580d, or 726 of the California Code of Civil Procedure.

(ii) The Guarantor waives all rights and defenses arising out of an election of remedies by the Principal, even though that election of remedies, such as a nonjudicial foreclosure with respect to security for an Obligation, has destroyed the Guarantor's rights of subrogation and reimbursement against the Principal by the operation of Section 580d of the Code of Civil Procedure or otherwise.

(d) Guarantor assumes all responsibility for keeping itself informed of Principal's financial condition and all other factors affecting the risks and liability assumed by Guarantor hereunder, and Beneficiary shall have no duty to advise Guarantor of information known to it regarding such risks.

(e) Guarantor waives any defense arising by reason of the incapacity, lack of authority or any disability of the Principal, failure of consideration or any defense based on or arising out of the lack of validity or enforceability of the Obligations;

(f) [Intentionally omitted]

(g) Guarantor waives its right to raise any defenses based upon promptness, diligence, and any requirement that Beneficiary protect, secure, perfect or insure any security interest or lien or any property subject thereto;

(h) Guarantor waives any other circumstances that limit the liability of or exonerate guarantors generally or provide any legal or equitable discharge of Guarantor's obligations hereunder;

(i) Other than demand for payment, the Guarantor expressly waives all notices between the Beneficiary and the Principal including without limitation all notices with respect to the Agreement and this Guaranty, notice of acceptance of this Guaranty, any notice of credits extended and sales made by the Beneficiary to Principal, any information regarding Principal's financial condition, and all other notices whatsoever; and

(j) Guarantor waives filing of claims with a court in the event of the insolvency or bankruptcy of the Principal.

9. No Waiver of Rights by Beneficiary. No right or power of Beneficiary under this Guaranty shall be deemed to have been waived by any act or conduct on the part of Beneficiary, or by any neglect to exercise a right or power, or by any delay in doing so, and every right or power of Beneficiary hereunder shall continue in full force and effect until specifically waived or released in a written document executed by Beneficiary.

10. Assignment, Successors and Assigns. This Guaranty shall be binding upon Guarantor, its successors and assigns, and shall inure to the benefit of, and be enforceable by, the Beneficiary and its successors and assigns. The Beneficiary shall have the right to assign this Guaranty to any person or entity without the prior consent of the Guarantor; *provided, however*, that no such assignment shall be binding upon the Guarantor until it receives written notice of such assignment from the Beneficiary.

The Guarantor shall have no right to assign this Guaranty or its obligations hereunder without the prior written consent of the Beneficiary.

11. Representations of Guarantor. Guarantor represents and warrants that:

(a) It is a corporation duly organized, validly existing and in good standing in the jurisdiction of its formation and has full power and authority to execute, deliver and perform this Guaranty;

(b) It has taken all necessary corporate actions to execute, deliver and perform this Guaranty;

(c) This Guaranty constitutes the legal, valid and binding obligation of Guarantor, enforceable in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws effecting creditors' rights generally and to general equitable principles;

(d) Execution, delivery and performance by Guarantor of this Guaranty does not conflict with, violate or create a default under any of its governing documents, any agreement or instruments to which it is a party or to which any of its assets is subject or any applicable law, rule, regulation, order or judgment of any Governmental Authority; and

(e) All consents, approvals and authorizations of governmental authorities required in connection with Guarantor's execution, delivery and performance of this Guaranty have been duly and validly obtained and remain in full force and effect.

12. Financial Statements. If requested by Beneficiary and if Guarantor is otherwise required to prepare the following, Guarantor shall deliver financial statements as describe below, which in all cases shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles:

(a) Within one hundred-twenty (120) days following the end of each fiscal year that any Obligations are outstanding, a copy of its annual report containing its 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

(b) Within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year that any Obligations are outstanding, a copy of its quarterly report containing its 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 and: (i) certified in accordance with all applicable laws and regulations, including without limitation all applicable Securities and Exchange Commission ("SEC") rules and regulations, if Guarantor 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 Guarantor is not an SEC reporting company.

(c) For the purposes of the requirement in this Paragraph 12, if Guarantor's financial statements are publicly available electronically on the website of Guarantor or the SEC, then Guarantor shall be deemed to have met this requirement.

13. Attorneys' Fees. In addition to the amounts for which payment is guaranteed hereunder, Guarantor agrees to pay reasonable attorneys' fees and all other reasonable costs and expenses incurred by Beneficiary in enforcing this Guaranty or in any action or proceeding arising out of or relating to this Guaranty. Any costs for which Guarantor becomes liable pursuant to this Paragraph 13 is not subject to, and does not count toward, the Guaranty limit set forth in Paragraph 2 above.

14. Governing Law. This Guaranty is made under and shall be governed in all respects by the laws of the State of California, without regard to conflict of law principles. If any provision of this Guaranty is held invalid under the laws of California, this Guaranty shall be construed as though the invalid provision has been deleted, and the rights and obligations of the parties shall be construed accordingly.

15. Construction. All parties to this Guaranty are represented by legal counsel. The terms of this Guaranty and the language used in this Guaranty shall be deemed to be the terms and language chosen by the parties hereto to express their mutual intent. This Guaranty shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument or any portion thereof to be drafted, or in favor of the party receiving a particular benefit under this Guaranty. No rule of strict construction will be applied against any party.

16. Amendment; Severability. Neither this Guaranty nor any of the terms hereof may be terminated, amended, supplemented or modified, except by an instrument in writing executed by an authorized representative of each of Guarantor and Beneficiary.

    If any provision in or obligation under this Guaranty is 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, is not in any way be affected or impaired thereby.

17. Third Party Rights. This Guaranty may not be construed to create any rights in any parties other than Guarantor and Beneficiary and their respective successors and permitted assigns.

18. Notices. Any demand for payment, notice, request, instruction, correspondence or other document to be given hereunder by any party to another shall be made by facsimile to the person and at the address for notices specified below.

Beneficiary:	*[Buyer]* *[Street]* *[City, State Zip]* Attn: Phone: Facsimile:
with a copy to:	*[Name]* *[Street]* *[City, State Zip]* Attn: Phone: Facsimile:
Guarantor:	*[Guarantor]* *[Street]* *[City, State Zip]* Attn: Phone: Facsimile:

Principal: *[Principal]*
[Street]
[City, State Zip]
Attn:
Phone:
Facsimile:

Such notice shall be effective upon confirmation of the actual receipt if received during the recipient's normal business hours, or at the beginning of the recipient's next Business Day after receipt if receipt is outside of the recipient's normal business hours. Either party may periodically change any address to which notice is to be given it by providing notice of such change as provided herein.

[signature page follows]

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of _____, ____.

_____*[legal name]*

By: _____
Name: _____
Title: _____

**** End of Exhibit O ****

EXHIBIT P
Form of Letter of Credit

IRREVOCABLE NONTRANSFERABLE STANDBY
LETTER OF CREDIT

Reference Number:

Transaction Date:

BENEFICIARY:

_____
_____
_____
_____

Ladies and Gentlemen:

_____ (the "Bank") establishes this Irrevocable Nontransferable Standby Letter of Credit ("Letter of Credit") in favor of _____, a California corporation (the "Beneficiary"), for the account of _____, a _____ corporation, also known as ID# ___ (the "Applicant"), for the amount of XXX AND XX/100 Dollars ($_____) (the "Available Amount"), effective immediately and expiring at 5:00 p.m., California time, on _____ (the "Expiration Date").

This Letter of Credit shall be of no further force or effect upon the close of business on _____ or, if such day is not a Business Day (as hereinafter defined), on the next preceding Business Day.

For the purposes hereof, "Business Day" shall mean any day on which commercial banks are not authorized or required to close in California.

Subject to the terms and conditions herein, funds under this Letter of Credit are available to Beneficiary by presentation in compliance on or before 5:00 p.m. California time, on or before the Expiration Date of the following:

1. The original of this Letter of Credit and all amendments (or photocopy of the original for partial drawings); and

2. The Drawing Certificate issued in the form of Attachment A attached hereto and which forms an integral part hereof, duly completed and purportedly bearing the signature of an authorized representative of the Beneficiary.

Notwithstanding the foregoing, any drawing hereunder may be requested by transmitting the requisite documents as described above to the Bank by facsimile at _____ or such other number as specified from time to time by the Bank.

The facsimile transmittal shall be deemed delivered when received. Drawings made by facsimile transmittal are deemed to be the operative instrument without the need of originally signed documents.

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 that, 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.

Banking charges shall be the sole responsibility of the Applicant.

This Letter of Credit sets forth in full our obligations and such obligations may 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 may not be deemed to incorporate by reference any document, instrument or agreement except for such attachment.

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 Issuer

Name:_____

Title:_____

ATTACHMENT A
Drawing Certificate

TO *[ISSUING BANK NAME]*

IRREVOCABLE NON-TRANSFERABLE STANDBY LETTER OF CREDIT

No. _____

DRAWING CERTIFICATE

Bank

Bank Address

Subject: Irrevocable Non-transferable Standby Letter of Credit
Reference Number:

The undersigned _____, an authorized representative of _____ (the "Beneficiary"), certifies to *[Issuing Bank Name]* (the "Bank"), and _____ (the "Applicant"), with reference to Irrevocable Nontransferable Standby Letter of Credit No. {_____}, dated _____, (the "Letter of Credit"), issued by the Bank in favor of the Beneficiary, as follows as of the date hereof:

1. The Beneficiary is entitled to draw under the Letter of Credit an amount equal to $_____, for the following reason(s) [check applicable provision]:

   [ ] A. An Event of Default, as defined in that certain Power Purchase and Sale Agreement between Applicant and Beneficiary, dated as of *[Date of Execution]* (the "Agreement"), with respect to the Applicant has occurred and is continuing.

   [ ] B. An Early Termination Date (as defined in the Agreement) has occurred or been designated as a result of an Event of Default (as defined in the Agreement) with respect to the Applicant for which there exist any unsatisfied payment obligations.

   [ ] C. The Letter of Credit will expire in fewer than 30 days from the date hereof, and Applicant has not provided Beneficiary alternative Performance Assurance (as defined in the Agreement) acceptable to Beneficiary.

   [ ] D. The Bank has heretofore provided written notice to the Beneficiary of the Bank's intent not to renew the Letter of Credit following the present Expiration Date thereof ("Notice of Non-renewal"), and Applicant has failed to provide the

Beneficiary with a replacement letter of credit satisfactory to Beneficiary in its sole discretion within 30 days following the date of the Notice of Non-renewal.

[ ] E. The Beneficiary is entitled to retain the entire Development Security (i) as a result of Applicant's failure to commence the Term by the Term Start Date, or (ii) the Agreement has terminated due to an Event of Default by Applicant before the Term Start Date.

[ ] F. The Beneficiary is entitled to retain a portion of the Development Security equal to the product of either (1) $20 per kW of Contract Capacity which Seller failed to demonstrate, if the Term Start Date occurs within 18 months of the Effective Date, or (2) $60 per kW times the kilowatts of Contract Capacity which Seller failed to demonstrate, if the Term Start Date occurs after the 18th month following the Effective Date.

2. Based upon the foregoing, the Beneficiary makes demand under the Letter of Credit for payment of U.S. DOLLARS AND ____/100ths (U.S.$_____), which amount does not exceed (i) the amount set forth in paragraph 1 above, and (ii) the Available Amount under the Letter of Credit as of the date hereof.

3. Funds paid pursuant to the provisions of the Letter of Credit shall be wire transferred to the Beneficiary in accordance with the following instructions:

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.

IN WITNESS WHEREOF, this Certificate has been duly executed and delivered on behalf of the Beneficiary by its authorized representative as of this ____ day of _____, _____.

Beneficiary: [BENEFICIARY NAME]

By: _____
Name:_____
Title:_____

**** End of Exhibit P ****

EXHIBIT Q
Seller's Milestone Schedule

No.	*Target Date*	*Milestones*

**** End of Exhibit Q ****

EXHIBIT R
Outage Scheduling Protocols and Outage Schedule Submittal Requirements

1. General Requirements.

(a) The Parties shall abide by the Outage Schedule Submittal Requirements described below and shall agree upon reasonable changes to these requirements and procedures from time to time, as necessary to:

(i) Comply with the CAISO Tariff;

(ii) Accommodate changes to their respective generation technology and organizational structure; and

(ii) Address changes in the operating and Scheduling procedures of Seller, Buyer and the CAISO, including automated forecast and outage submissions.

(b) Seller shall direct all Outage notifications to Buyer's web-based outage scheduling system or an e-mail address designated by Buyer (the "Web Scheduler") and to the Generation Operations Center, whose URL and telephone number(s) can be found in Exhibit N.

2. Seller's Availability Forecasting Submittal Requirements for all Generating Facilities.

Seller shall direct all Outage notifications to the Web Scheduler and to the Generation Operations Center (at the URL and telephone number(s) as set forth in Exhibit N). Seller shall submit maintenance and Planned Outage schedules (as defined in the CAISO Tariff under WECC rules) in accordance with the following schedule:

(a) No later than January 1st, April 1st, July 1st and October 1st of each Term Year, and at least 60 days before Parallel Operation, Seller shall submit to Buyer its schedule of proposed Planned Outages ("Outage Schedule") for the subsequent twenty four-month period using a Buyer-provided web-based system or an e-mail address designated by Buyer ("Web Client").

(b) Seller shall notify Buyer of the proposed Planned Outage schedule for the Project by the earlier of ninety (90) days before the beginning of each month or forty-five (45) days before Buyer's monthly RAR Showings must be completed in accordance with the CAISO Tariff or decision of the CPUC. The Planned Outage schedule is subject to Buyer's approval, which approval may not be unreasonably withheld or conditioned.

(c) Seller shall confirm or provide updates to Buyer regarding any Outage by the earlier of thirty (30) days prior to such Outage or two (2) Business Days prior to the CAISO deadline for submitting Outages.

(d) Seller shall provide the following information for each proposed Planned Outage:

(i) Start date and time;

(ii) End date and time;

(iii) Capacity online, in MW, during the Planned Outage; and

(iv) Reason for the proposed outage.

(e) Within 20 Business Days after Buyer's receipt of an Outage Schedule, Buyer shall notify Seller in writing of any Buyer request for changes to the Outage Schedule, and Seller shall, consistent with Prudent Electrical Practices, accommodate Buyer's requests regarding the timing of any Planned Outage.

(f) Seller shall cooperate with Buyer to arrange and coordinate all Outage Schedules with the CAISO. After any Planned Outage has been scheduled, at any time up to the commencement of work for the Planned Outage, Buyer may direct that Seller change its outage schedule as ordered by CAISO. For CAISO ordered changes to a Planned Outage, Seller shall comply with CAISO instructions. Buyer is not obligated to act to mitigate or eliminate any need for CAISO ordered changes to a Planned Outage. For non-CAISO ordered changes to a Planned Outage schedule requested by Buyer, Seller shall notify Buyer of any incremental costs associated with such schedule change and an alternative schedule change, if any, that would entail lower incremental costs. If Buyer agrees to pay the incremental costs, Seller shall use commercially reasonable efforts to accommodate Buyer's request.

(g) In the event a condition occurs at the Generating Facility which causes Seller to revise its Planned Outages, Seller shall provide Notice to Buyer, 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.

(h) Seller shall promptly prepare and provide to Buyer upon request, using the Web Client, all reports of actual or forecasted outages that Buyer may reasonably require for the purpose of enabling Buyer to comply with Section 761.3 of the California Public Utilities Code, the CAISO Tariff 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.

(i) Seller shall notify Buyer of a Forced Outage as promptly as possible, but no later than ten (10) minutes after the commencement of the Forced Outage and in accordance with the notification requirements and procedures set forth in this

Exhibit R. Buyer shall put forth commercially reasonable efforts to submit such outages to CAISO.

3. Notification. Seller shall direct all Outage notifications pursuant to the procedures below to the Web Scheduler and to the Generation Operations Center (at the URL and telephone number(s) as set forth in Exhibit N).

(a) Forced Outages. Seller shall notify Generation Operation Center's desk verbally as promptly as possible, but no later than ten minutes after the commencement of a Forced Outage, after the safety of all personnel and securing of all facility equipment.

(i) Seller will be responsible for reporting the following information when reporting Forced Outages to the Generation Operations Center:

1. Operator Name.

2. Specific Issue: outage or derate due to XXX.

3. Total Plant Availability: the current MW value the plant can generate.

4. Estimated Time of Return or ETR: Date (MMDDYYYY) and time (HH:MM) in 24H format.

(b) Routine Start-Up and Shutdowns. Prior to paralleling or after disconnecting from the electric system, Seller to always follow balancing authority rules and notify the applicable Transmission Provider's switching center.

(i) Call the applicable Transmission Provider's switching center and the Generation Operations Center to advise of the intent to parallel before any start-up.

(ii) Call the applicable Transmission Provider's switching center and the Generation Operations Center after the Generating Unit has been paralleled and report the parallel time and intended Generating Unit output.

(iii) Call the applicable Transmission Provider's switching center and the Generation Operations Center after any routine separation and report the separation time as well as the date and time estimate for return to service.

4. Restrictions.

(a) Seller shall make reasonable efforts not to schedule an Outage during the Peak Months.

(b) When scheduling an Outage, the notification time shall be rounded to the nearest hour. For example: 11:29 becomes 11:00 and 11:30 becomes 12:00.

(c) Seller may not schedule an Outage that overlaps another Outage or Curtailment Period already scheduled on the Generating Facility.

**** End of Exhibit R ****

EXHIBIT S

[Intentionally Omitted]

**** End of Exhibit S ****

EXHIBIT T-1
QF Efficiency Monitoring Program – Cogeneration Data Reporting Form

[Buyer's address]
Buyer's telephone number and email address]

[Previous Year]

I. Name and Address of Project

Name: _____

Street: _____

City: _____ State: _____ Zip Code: _____

ID No.: _____ Generation Nameplate (KW): _____

II. In Operation: Yes ☐ No ☐

III. Can your facility dump your thermal output directly to the environment? Yes ☐ No ☐

IV. Ownership

	Name	Address	Ownership (%)	Utility	
1				Y	N
2				Y	N
3				Y	N
4				Y	N
5				Y	N

V. [PrevYear] Monthly Operating Data

- Indicate the unit of measure used for your useful thermal output if other than mBTUs:
  BTUs _____ Therms _____ mmBTUs _____
- If Energy Input is natural gas, use the Lower Heating Value (LHV) as supplied by Gas Supplier.

	Useful Power Output (kWh)	Energy Input (Therms)	Useful Thermal Output (mBtu)
Jan			
Feb			
Mar			
Apr			
May			
Jun			
Jul			
Aug			
Sep			
Oct			
Nov			
Dec			
Yearly			
Total			

**** End of Exhibit T-1 ****

EXHIBIT T-2
Fuel Use Standards – Small Power Production Facility Data Reporting Form

[Buyer's address]
Buyer's telephone number and email address]

[Previous Year]; ID NO. _____

I. **Name and Address of Facility ("Project")**

Name: _____

Street: _____

City: _____ State: _____ Zip Code: _____

Generation Nameplate (KW): _____

II. **Primary Energy:** ☐ **Biomass** ☐ **Waste** ☐ **Solar** ☐ **Other:** _____

III. **Ownership**

	Name	Address	Ownership (%)	Utility	
1				Y	N
2				Y	N
3				Y	N
4				Y	N
5				Y	N

IV. **[PrevYear] Monthly Operating Data**

	Useful Power Output (1) (kWh)	**Primary Energy Source (2) (mBTU)**	**Supplementary Energy Source (3) (mBTU)**	**Total Energy Input (4) (mBTU)**
Jan				
Feb				
Mar				
Apr				
May				
Jun				
Jul				
Aug				
Sep				
Oct				
Nov				
Dec				
Total				

(1) Useful Power Output is the electric or mechanical energy made available for use from the facility.
(2) The Primary Energy Source must be biomass, waste, renewable resources, or geothermal resources. Use Lower Heating Value (LHV)
(3) The Supplementary Energy Source is the use of fossil fuel. Use Lower Heating Value (LHV)
(4) Please use Total Energy Input to include all energy sources: primary, supplementary, and auxiliary power from outside the facility.

**** End of Exhibit T-2 ****

EXHIBIT U
Economic Dispatch Down

This Exhibit U applies only when Buyer is the Scheduling Coordinator.

If a Generating Facility is subject to delivery curtailments under Economic Dispatch Down in any Settlement Interval, Seller may be eligible for Deemed Delivered Energy payments for the volume of energy not delivered subject to the Economic Dispatch Down.

SDD Adjustments are not applicable (i) during Economic Dispatch Down periods, which shall include any intervals required to ramp down the generation, and (ii) to the calculation of Deemed Delivered Energy under Economic Dispatch Down occurrences.

For Seller to qualify for Deemed Delivered Energy payments, (i) if the Generating Facility is PIRP certified, Seller must utilize the PIRP Forecasting Program for scheduling or (ii) if the Generating Facility is not PIRP certified, then the Deemed Delivery Forecast, as updated for any Outages, will be utilized for Deemed Delivered Energy determinations.

1. PIRP Forecasting Program Requirements. Seller shall cause the Project to become a Participating Intermittent Resource, including executing all necessary documents to become a Participating Intermittent Resource. Seller shall be responsible for all CAISO forecasting fees and related CAISO Charges associated with the Project becoming a Participating Intermittent Resource and participating in the PIRP Forecasting Program. Seller and Buyer shall comply with the PIRP Forecasting Program, and all additional protocols issued by the CAISO relating to Participating Intermittent Resources, including the PIRP Forecasting Program, for the Seller shall provide Buyer with a copy of the notice from the CAISO certifying the Project as a Participating Intermittent Resource prior to the Term Start Date. In the event that the PIRP Forecasting Program or the CAISO Tariff and/or any protocols relating thereto are changed, amended, modified replaced or terminated, Seller and Buyer agree to comply with such revisions and, to the extent practical, to implement such revisions in a manner that maintains the relative economic positions of the Parties as of the date of this Agreement.

2. System Requirements. Seller shall acquire, install, and maintain such facilities, communications links and other equipment, and implement such protocols and practices, as necessary (i) for Seller to respond and follow instructions, including an electronic signal conveying real time instructions, to operate the Project as directed by the Buyer and/or the CAISO, including to implement a Power Product Curtailment or an Economic Dispatch Down in accordance with the then-current methodology used to transmit such instructions as it may change from time to time, and (ii) for Buyer and/or the CAISO to control the quantity of Product generated by the Project in order to implement a Power Product Curtailment or an Economic Dispatch Down, in each case, in accordance with the then-current methodology used to transmit such instructions as it may change from time to time. As of the Effective Date, the systems required to comply with the foregoing clause (i) include, at a minimum, the CAISO's Automatic Dispatch System (as described in the CAISO website) and the systems required to comply with the foregoing clause (ii)

include, at a minimum, the CAISO's Application Programming Interfaces (as described in the CAISO website). If at any time during the Delivery Term Seller's facilities, communications links or other equipment, protocols or practices are not in compliance with then-current methodologies, Seller shall take all commercially reasonable steps necessary to become compliant as soon as possible. Seller shall be liable for all CAISO Charges pursuant to the forecast delivery requirements of Exhibit I and scheduling requirements of Exhibit R resulting in a failure to comply with an order directing an Economic Dispatch Down, during the time that Seller's facilities, communications links or other equipment, protocols or practices are not in compliance with then-current methodologies. For the avoidance of doubt, an order directing an Economic Dispatch Down via such systems, facilities or equipment shall have the same force and effect on Seller as any other form of communication. If an electronic submission of such an order is not possible, Buyer and/or the CAISO may provide Notices (in order of preference) by electronic mail, telephonically, or via facsimile transmission, in each case to Seller's personnel designated to receive such communications (as set forth in Exhibit N) and Seller shall maintain communications systems necessary to permit such transmittal of such Notices.

3. Deemed Delivered Energy Determination

Deemed Delivered Energy (*DDE*) shall be calculated as follows:

DDE = Min (A,D) – Max (B,C)

Where:

A = Deemed Delivery Forecast

B = energy (MWh) as instructed during an Economic Dispatch Down period. For the purpose of calculating DDE, the energy (MWh) as instructed during an Economic Dispatch Down period shall be the total Expected Energy.

C = energy delivered to the Delivery Point during the Economic Dispatch Down period.

D = Maximum Potential Energy

4. Failure to Comply. If Seller fails to comply with an Economic Dispatch Down requested in accordance with this Exhibit U or a Power Product Curtailment in accordance with Section 3.15, then, for each MWh of energy that the Project generated in contradiction to the Economic Dispatch Down or Power Product Curtailment, Seller shall pay Buyer for each such MWh at an amount equal to the sum of (A) + (B) + (C), where: (A) is the amount, if any, paid to Seller by Buyer for delivery of such MWh (for example, the Monthly Contract Payment); (B) is the absolute value of the Real-Time Price for the applicable PNode, if such price is negative, for the Economic Dispatch Down period or

Curtailment Period; and (C) is any penalties or other charges resulting from Seller's failure to comply with an Economic Dispatch Down or a Power Product Curtailment.

Neither Party shall be subject to a double payment or a double charge for energy settlements from the Generating Facility pursuant to this Agreement and the CAISO settlement process. To facilitate that, the Parties acknowledge that Energy Payment and RA Capacity Payment calculations under this Agreement are intended to produce a final economic result that is consistent with the fundamental transaction implemented by this Agreement.

**** End of Exhibit U ***

Appendix B

SCE's New QF SOC (redline)

POWER PURCHASE AND SALE AGREEMENT

between

SOUTHERN CALIFORNIA EDISON COMPANY

and

[SELLER'S NAME]

(ID #[Number])

Standard Contract for Qualifying Facilities with a Power Rating that is Less than or Equal to 20MW

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C. Procedure for Capacity Verification

[D. Monthly Contract Payment Calculation (As-Delivered Option)

D. Monthly Contract Payment Calculation (As-Executed Option)]

{Drafting Note: Delete the applicable Exhibit D, depending on Seller's election of as-delivered or as-executed pricing.}

E. Intentionally Omitted

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POWER PURCHASE AND SALE AGREEMENT

between

SOUTHERN CALIFORNIA EDISON COMPANY

and

[SELLER'S NAME]

(ID# [Number])

PREAMBLE

This Power Purchase and Sale Agreement by and between **Southern California Edison Company**, a California corporation ("Buyer"), and **[Seller's name]**, a [Seller's form of business entity and state of registration] ("Seller"), together with the exhibits, attachments, and any applicable referenced collateral agreement or similar arrangement between the Parties that is expressly incorporated into this Agreement by the Parties (collectively, this "Agreement"), is made, effective and binding as of the latest signature date (the "Effective Date").

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

RECITALS

A. On May 15, 2020, the CPUC issued Decision ("D.") 20-05-06 (the "Decision") which, among other things, directed Buyer to develop a form of a standard contract and offer such contract to Qualifying Facilities of 20MW or less, as set forth in the Decision.

B. In response to the Decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company jointly developed a form of standard contract for Qualifying Facilities of 20MW or less (the "PURPA Contract").

C. This Agreement is based upon the PURPA Contract.

D. As set forth in the Decision, this Agreement does not change or interfere with, among other things, that certain form standard offer contract (the "QF PPA") adopted in accordance with the Qualifying Facility (QF) Settlement approved in D.10-12-035, as modified by D.15 06-028 (the "2010 Decision"), and in connection with the related Settlement Agreement, dated October 8, 2010 (the "Settlement Agreement") and effective on November 23, 2011 (the "Settlement Effective Date").

The Parties, intending to be legally bound, agree as follows:

ARTICLE ONE. SPECIAL CONDITIONS

1.01 Term.

(a) The term of this Agreement (the "Term") commences on, or within 120 days before [Date]; *provided, however,* that Seller may change the date set forth in this Section 1.01(a) by providing Notice to Buyer at least one year before such date;

(b) Seller shall provide Buyer with 30 days advance Notice confirming the exact date on which the Term commences, which date must be within the 120-day period set forth in Section 1.01(a) (the "Term Start Date");

(c) The Term Start Date must occur on the first day of a calendar month;

(d) The Term ends [Number of months] months after the Term Start Date (the "Term End Date"); and

(e) Notwithstanding the proviso set forth in Section 1.01(a), the Term Start Date must occur within 60 months of the Effective Date, subject to any extension of the Term Start Date as a result of a Force Majeure as to which Seller is the Claiming Party (subject to Section 5.03) and Section 4(c)(ii) of Exhibit F.

{Buyer Comment: Select this Section 1.01 if Seller is a New Qualifying Facility. Seller designates the Term Start Date and the Term End Date; provided, however, that the Term must be no more than 12 years.}

(a) Subject to any extension of the Term Start Date pursuant to Section 11.2.1 of the Settlement Agreement, the term of this Agreement (the "Term") commences on [Date] (the "Term Start Date");

(b) The Term ends [Number of months] months after the Term Start Date (the "Term End Date");

(c) The Term Start Date must occur on the first day of a calendar month;

(d) Subject to any extension of the Term Start Date pursuant to Section 11.2.1 of the Settlement Agreement, Seller may change the Term Start Date set forth in this Section 1.01 by providing Notice to Buyer at least one year before such Term Start Date; and

(e) Notwithstanding Section 1.01(d), the Term Start Date must occur within 24 months of the Effective Date, subject to any extension of the Term Start Date as a result of a Force Majeure as to which Seller is the Claiming Party (subject to Section 5.03).

{Buyer Comment: Select this Section 1.01 if Seller is an Existing Qualifying Facility. Seller designates the Term Start Date and the Term End Date; provided, however, that the Term must be no more than 7 years.}

1.02 Generating Facility.

(a) Name; Designation. The name of the Generating Facility is [Generating Facility name], which is [a New Qualifying Facility] [an Existing Qualifying Facility].

(b) Location; Site. The Generating Facility is located at [Generating Facility address], and is further described in Exhibit B.

(c) Qualifying Facility Type. As of the Effective Date, the Generating Facility is a ["small power production facility", as described in 18 CFR Part 292, Section 292.203(a)] ["topping-cycle cogeneration facility", as defined in 18 CFR Part 292, Section 292.202(d)] ["bottoming-cycle cogeneration facility", as defined in 18 CFR Part 292, Section 292.202(e)].

(d) Contract Capacity. "Contract Capacity" is [Number of MW] MW, which is subject to adjustment if the Generating Facility is a New Qualifying Facility or, as set forth in Section 5.2.4.4 of the Settlement Agreement, an Existing Qualifying Facility that is Operating in California but that has never entered into an agreement for the purchase and sale of electric energy with Buyer or any other California investor-owned utility, Section 3.13(a).

Notwithstanding anything to the contrary set forth in this Agreement, the Power Rating must not, from the Effective Date until the termination of this Agreement, exceed 20MW and Contract Capacity must not exceed the Power Rating.

{Buyer Comment: Further, the Contract Capacity cannot exceed PMax.}

(e) Net Qualifying Capacity. The "Project NQC" means Net Qualifying Capacity for the Generating Facility issued by the CAISO for compliance with Resource Adequacy Obligations, as stated in CAISO's Net Qualifying Capacity Report as updated from time to time. For Generating Facilities that are listed on CAISO's Net Qualifying Capacity Report, "Project NQC" shall be as specified therein for each calendar month in the applicable calendar year during the Term. For new Generating Facilities that are not listed in the CAISO's Net Qualifying Capacity Report, "Project NQC' shall be in accordance with the monthly technology factors listed in the CAISO's Net Qualifying Capacity Report for any calendar year in which the Generating Facility is not listed.

(f) Expected Term Year Energy Production. The Expected Term Year Energy Production for each Term Year equals [number of kWh] kWh. The Expected Term Year Energy Production may be revised based on changes in the Site Host

Load or the Site Host thermal requirements; *provided, however,* that such revision must be supported by a certification from a California-licensed professional engineer qualified to make a representation affirming that such revision is reasonable and based on changes in the Site Host Load or the Site Host thermal requirements. Such certification must include all data relied on to support the revised Expected Term Year Energy Production.

{Buyer Comment: Expected Term Year Energy Production cannot exceed Contract Capacity at 100% capacity factor applied over the Term Year.}

1.03 Delivery Point. The delivery point is the point of delivery of the Power Product to the CAISO Controlled Grid (the "Delivery Point"). Seller shall provide and convey to Buyer the Power Product from the Generating Facility at the Delivery Point. Title to and risk of loss related to the Power Product transfer from Seller to Buyer at the Delivery Point.

1.04 Capacity Performance Requirements. As further described in Exhibit D, the Generating Facility must provide the Project NQC as issued by the CAISO for compliance with Resource Adequacy Obligations to be eligible for any RA Capacity Payment.

1.05 Outages. Scheduling of all Outages shall be in accordance with Exhibit R. If the Generating Facility is on Outage, or Seller is otherwise unable to provide Capacity Attributes or Resource Adequacy Benefits to Buyer in any month, Buyer shall not have any obligation to provide any RA Substitute Capacity or minimize any Non-Availability Charges (or other CAISO Charges) for which the Seller will be solely responsible pursuant to Section 3.22.

1.06 Power Product Prices.

(a) Energy Payment. The price for calculation of the Energy Payment is set forth in Section 2 of Exhibit D.

(b) RA Capacity Payment. The price for calculation of the RA Capacity Payment is set forth in Section 3 of Exhibit D.

1.07 Requirements Applicable Solely to New Qualifying Facilities. If the Generating Facility is a New Qualifying Facility, the provisions of this Section 1.07 also apply to Seller.

(a) Credit and Collateral Requirements.

(i) Seller shall post and thereafter maintain the Development Security in accordance with Section 4(b) of Exhibit F.

(ii) Seller shall post and thereafter maintain the Performance Assurance, in accordance with Section 2(a) of Exhibit F, in an amount equal to[*Option 1*: 12 months of expected total revenues] [*Option 2*: five percent of the

expected total revenues] [*Option 3*: *[As proposed by Seller, subject to Buyer's acceptance in its sole discretion]*] of the Generating Facility under this Agreement (the "Performance Assurance Amount"). The initial Performance Assurance Amount equals $[___]. The Performance Assurance Amount will be revised upon any change to the Expected Term Year Energy Production.

{Buyer Comment: Select one of the two options for posting Performance Assurance listed above. Alternatively, Seller may propose a third option for posting Performance Assurance, which is subject to Buyer's acceptance in its sole discretion.}

(iii) Seller shall comply with all of the provisions of Exhibit F.

(b) Seller's Guarantor; Guaranty Amount; Guarantor Cross Default Amount.

(i) Seller's Guarantor, if any, is [Name of Guarantor]. Unless otherwise set forth in the immediately preceding sentence, the Guarantor set forth in this Section 1.07(b)(i) does not include any parent, subsidiary or Related Entity of Seller.

(ii) Guarantor shall guarantee $[Performance Assurance Amount x 1.25].

(iii) The Guarantor Cross Default Amount, if any, equals $[___].

{Buyer Comment: Guarantor Cross Default Amount must equal two percent of Guarantor's tangible net worth.}

1.08 Scheduling Coordinator Election. [Buyer][Seller][_____, an agent of Seller] is the Scheduling Coordinator under this Agreement.

**** End of Article One ****

ARTICLE TWO. SELLER'S SATISFACTION OF OBLIGATIONS BEFORE THE TERM START DATE; TERMINATION

2.01 Seller's Satisfaction of Obligations before the Term Start Date. Seller shall satisfy each of the following obligations before the Term Start Date:

(a) The Generating Facility is a Qualifying Facility, subject to Section 3.17(c);

(b) Seller enters into all agreements, obtains all Governmental Authority approvals and Permits, and takes all steps necessary for it to:

(i) Operate the Generating Facility;

(ii) Deliver electric energy from the Generating Facility to the Delivery Point; and

(iii) Schedule, or arrange for a third party or Buyer to Schedule, the electric energy produced by the Generating Facility with the CAISO;

(c) Seller's Scheduling Coordinator, as set forth in Section 1.08, is authorized by the CAISO to Schedule the electric energy produced by the Generating Facility with the CAISO;

(d) Seller satisfies its obligation to install the CAISO-Approved Meters as set forth in this Agreement;

(e) Seller furnishes to Buyer the insurance documents required under Section 9.11(c);

(f) Seller is in compliance with the CAISO Tariff as set forth in this Agreement;

(g) Seller enters into and fulfills all of its obligations under (i) the applicable interconnection agreements with the applicable Transmission Provider that are required to enable Parallel Operation of the Generating Facility with the interconnected electric system and the CAISO Controlled Grid, and (ii) any transmission, distribution or other service agreement that are required to enable Seller to transmit electric energy from the Generating Facility to the Delivery Point;

(h) Seller furnishes to Buyer all documents necessary to demonstrate that Seller has satisfied all of the CAISO agreement, interconnection agreement, and metering requirements and has enabled the Generating Facility to schedule with the CAISO for the Generating Facility's full unrestricted power output;

(i) Seller furnishes to Buyer the documents required under Section 3.05, which documentation demonstrates that the Generating Facility's interconnection has not changed since the Effective Date;

(j) If Buyer is Scheduling Coordinator and the Generating Facility is PIRP-eligible, then the Generating Facility is certified as a PIRP resource by the CAISO;

(k) If the Generating Facility is a New Qualifying Facility, Seller has posted with Buyer the Performance Assurance Amount in accordance with Section 1.07 and Exhibit F;

(l) Seller has tested all systems necessary for the Generating Facility to respond to dispatches pursuant to the Operational Characteristics and Project Specifications set forth in Exhibit B and CAISO dispatch instructions; and

(m) Seller furnishes to Buyer all documents necessary to demonstrate that the Operational Characteristics and Project Specifications are as set forth in Exhibit B, including without limitation the location of the Generating Facility, interconnection information, and PNode.

2.02 Termination Rights of the Parties.

(a) [Intentionally omitted.]

(b) [Intentionally omitted.]

(c) Event of Default. In the event of an uncured Event of Default or an Event of Default for which there is no opportunity for cure permitted in this Agreement, the Non-Defaulting Party may, at its option, terminate this Agreement as set forth in Section 6.02 and, if the Non-Defaulting Party is Buyer, then Seller (or any entity over which Seller or any owner or manager of Seller exercises control) agrees to waive any right it may have under PURPA, or otherwise, to enter into any new mandatory must-purchase contract (including (y) the Transition PPA, the QF PPA or the Optional As-Available PPA, as such terms are defined in the Settlement Agreement and (z) the PURPA Contract) to sell electric energy, capacity or Related Products from the Generating Facility to Buyer or any other California investor-owned utility for a period of 365 days following the date of such termination. For purposes of this Section 2.02(c), "control" means the direct or indirect ownership of 20% or more of the outstanding capital stock or other equity interests having ordinary voting power.

(d) End of Term. This Agreement automatically terminates at 11:59 p.m. PPT on the Term End Date.

2.03 Rights and Obligations Surviving Termination. The rights and obligations of the Parties that are intended to survive a termination of this Agreement are all such rights and obligations that this Agreement expressly provides survive such termination as well as those rights and obligations arising from either Parties' covenants, agreements,

representations or warranties applicable to, or to be performed, at, before or as a result of the termination of this Agreement, including:

(a) The obligation of Buyer to make all outstanding Monthly Contract Payments for periods before termination of this Agreement;

(b) The obligation of Buyer to invoice Seller for all payment adjustments for periods before termination of this Agreement, as set forth in Section 4.02;

(c) The obligation of Seller to pay any Buyer payment-adjustment invoice described in Section 4.03(b) for periods before termination of this Agreement within 30 days of Seller's receipt of such invoice;

(d) The obligation of Buyer or Seller, as applicable, to make payments, if any, after the termination of this Agreement;

(e) The obligation to make a Termination Payment, as set forth in Section 6.03;

(f) The indemnity obligations, as set forth in Section 9.04;

(g) The obligation of confidentiality, as set forth in Section 9.10;

(h) The right to pursue remedies under Section 6.02(c);

(i) The limitation of damages under Article Seven; and

(j) If the Generating Facility is a New Qualifying Facility, the obligation of Seller to post Performance Assurance in accordance with Section 1.07 and Exhibit F.

*** *End of Article Two* ***

ARTICLE THREE. SELLER'S OBLIGATIONS

3.01 Conveyance of the Product; Retained Benefits.

(a) Product. During the Term, Seller shall provide and convey the Product to Buyer in accordance with the terms of this Agreement, and Buyer shall have the exclusive right to the Product and all benefits derived therefrom, including the exclusive right to sell, convey, transfer, allocate, designate, award, report or otherwise provide any and all of the Product purchased under this Agreement and the right to all revenues generated from the use, sale or marketing of the Product.

(b) Green Attributes. Seller hereby provides and conveys all Green Attributes associated with the Related Products as part of the Product being delivered during the Term. Seller represents and warrants that Seller holds the rights to all Green Attributes associated with the Related Products, 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.

(c) Further Action by Seller. Seller shall, at its own cost, take all reasonable actions and execute all documents or instruments that are reasonable and necessary to effectuate the use of the Related Products for Buyer's benefit throughout the Term, which actions shall include:

(i) If the Related Products include Capacity Attributes or Resource Adequacy Benefits, cooperating with the Governmental Authority responsible for resource adequacy administration to certify the Generating Facility for resource adequacy purposes;

(ii) If the Related Products include Capacity Attributes or Resource Adequacy Benefits, testing the Generating Facility as may be required to certify the Generating Facility for resource adequacy purposes in accordance with the requirements set forth in the CAISO Tariff;

(iii) Committing to Buyer the Project NQC;

(iv) Complying with Applicable Laws regarding the registration, transfer or ownership of Green Attributes associated with the Related Products, including, if applicable to the Generating Facility, participation in WREGIS or other process recognized under Applicable Laws. With respect to WREGIS, at Buyer's option, Seller shall cause and allow Buyer to be the "Qualified Reporting Entity" and "Account Holder" (as these two terms are defined by WREGIS) for the Generating Facility;

(v) If the Related Products include Capacity Attributes or Resource Adequacy Benefits, complying with all CAISO Tariff requirements and CAISO dispatches applicable to a Resource Adequacy Resource; and

(vi) If Buyer is not the Scheduling Coordinator and the Related Products include Capacity Attributes or Resource Adequacy Benefits:

1) Timely submitting, or causing Seller's Scheduling Coordinator to timely submit, Supply Plans to identify and confirm the Project NQC sold to Buyer as a Resource Adequacy Resource; and

2) Causing the Generating Facility's Scheduling Coordinator to certify to Buyer, within 15 Business Days before the relevant deadline for any applicable RAR Showing or LAR Showing, that Buyer will be credited with the Project NQC for such RAR Showing or LAR Showing in the Generating Facility's Scheduling Coordinator's Supply Plan.

(d) Retained Benefits. Seller shall retain for its own use or disposition all Financial Incentives and all attributes, benefits and credits associated with the Generating Facility and the electrical or thermal energy produced therefrom, other than the Power Product and the Related Products. Subject to Seller's compliance with the applicable FERC rules and regulations, Seller may use, provide and convey any electric energy, capacity, Green Attributes, Capacity Attributes, Resource Adequacy Benefits, or any other product or benefit associated with the Generating Facility or the output thereof before the Term Start Date.

3.02 Resource Adequacy Rulings. During the Term, Seller shall grant, pledge, assign and otherwise commit to Buyer the generating capacity of the Generating Facility associated with the Related Products in order for Buyer to use in meeting its Resource Adequacy Obligations. Seller:

(a) Has not used, granted, pledged, assigned or otherwise committed any portion of the generating capacity of the Generating Facility associated with the Related Products to meet the Resource Adequacy Rulings of, or to confer Resource Adequacy Benefits on, any Person other than Buyer;

(b) Will not during the Term use, grant, pledge, assign or otherwise commit any portion of the generating capacity of the Generating Facility associated with the Related Products to meet the Resource Adequacy Rulings of, or to confer Resource Adequacy Benefits on, any Person other than Buyer; and

(c) If the Product includes Capacity Attributes or Resource Adequacy Benefits, shall take all reasonable actions (including complying with all current and future CAISO Tariff provisions and decisions of the CPUC or any other Governmental

Authority that address Resource Adequacy Rulings) and execute all documents that are reasonable and necessary to effect the use of the generating capacity of the Generating Facility associated with the Related Products for Buyer's sole benefit throughout the Term.

3.03 Site Control.

(a) Seller shall have Site Control as of the earlier of: (i) the Term Start Date, and (ii) any period before the Term Start Date to the extent necessary for Seller to perform its obligations under this Agreement and, in each case, will maintain Site Control throughout the Term. Seller shall provide Buyer with prompt Notice of any change in the status of Seller's Site Control.

(b) If the Generating Facility is a New Qualifying Facility, Seller shall provide Buyer with Notice of the status of its Site Control before commencing construction of the Generating Facility.

3.04 Permits. Seller shall obtain and maintain any and all Permits necessary for the Operation of the Generating Facility and to deliver electric energy from the Generating Facility to the Delivery Point.

3.05 Transmission.

(a) Interconnection Studies. Seller has provided Buyer with true and complete copies of all Interconnection Studies received by Seller for the Generating Facility after the date that is 24 months before the Effective Date.

(b) Seller's Responsibility. Seller shall obtain and maintain all distribution, transmission and interconnection rights and agreements (including all Governmental Authority approvals) required to enable Parallel Operation of the Generating Facility with the Transmission Provider's electric system and the applicable Control Area operator's electric grid and to effect Scheduling of the electric energy from the Generating Facility and transmission and delivery to the Delivery Point.

Except as otherwise provided in its interconnection agreement, the CAISO Tariff, or the Transmission Provider's tariff, rules or regulations, Seller shall pay all Transmission Provider charges or other charges directly caused by, associated with, or allocated to the following:

(i) All required Interconnection Studies, facilities upgrades, and agreements;

(ii) Interconnection of the Generating Facility to the Transmission Provider's electric system;

(iii) Any costs or fees associated with obtaining and maintaining a wholesale distribution access tariff agreement, if applicable; and

(iv) The transmission and delivery of electric energy from the Generating Facility to the Delivery Point.

(c) Acknowledgement. The Parties acknowledge and agree that any other agreement between Seller and Buyer, including any interconnection agreements, is separate and apart from this Agreement and does not modify or add to the Parties' obligations under this Agreement, and that any Party's breach under such other agreement does not excuse such Party's nonperformance under this Agreement, except to the extent that such breach constitutes a Force Majeure under this Agreement.

3.06 CAISO Relationship.

(a) Throughout the Term, Seller shall comply with all applicable provisions of the CAISO Tariff (including complying with any exemption obtained from the CAISO pursuant to the CAISO Tariff), as determined by the CAISO, including securing and maintaining in full force all of the CAISO agreements, certifications and approvals required in order for the Generating Facility to comply with the applicable provisions of the CAISO Tariff.

(b) [Intentionally omitted.]

(c) Buyer agrees that, upon the CAISO's request, Buyer shall provide to the CAISO any settlement quality meter data reasonably requested by the CAISO for settlement purposes.

3.07 Operational Characteristics; Generating Facility Modifications.

(a) Seller agrees to coordinate with the Scheduling Coordinator to ensure all information provided to the CAISO regarding the operational and technical constraints in the Master File for the Project is accurate and based on the Operational Characteristics and Project Specifications set forth in Exhibit B. Seller is responsible for the design, procurement and construction of all modifications necessary for the Generating Facility to meet the requirements of this Agreement and to comply with any restriction set forth in any Permit. Notwithstanding anything to the contrary set forth in this Agreement, during the Term, Seller shall not modify the Project in such a manner that would materially modify the underlying technology, Operational Characteristics, Project Specifications or Site Description as all are specified in Exhibit B. For any other Project modifications that do not materially modify the underlying technology, Operational Characteristics, Project Specifications or Site Description, Seller shall provide the applicable updated information to Buyer promptly and Seller and

Buyer will cooperate in good faith to agree upon and document any appropriate adjustments to Exhibit B to incorporate such updated information.

(b) Seller shall provide 30 days advance Notice to Buyer if there is any modification (other than a routine fluctuation in output or consumption) of the Generating Facility, the Site Host Load or operations related to the Site Host Load changing:

(i) Electric energy output by five percent of Expected Term Year Energy Production; or

(ii) The type of Primary Fuel consumed by the Generating Facility.

(c) [Intentionally omitted.]

(d) Seller acknowledges that nothing in this Section 3.07 excuses Seller from any requirements of the CAISO's interconnection process or any other applicable interconnection process.

(e) Seller is solely responsible for all costs associated with the implementation and regulation of Greenhouse Gas emissions with respect to Seller or the Generating Facility.

3.08 Metering.

(a) CAISO-Approved Meter. Seller shall, at its own cost, install, maintain and test all CAISO-Approved Meters pursuant to the CAISO Tariff or other applicable metering requirements.

(b) Check Meter. Buyer may, at its sole cost, furnish and install one Check Meter at the interconnection associated with the Generating Facility at a location designated by Seller or any other location mutually agreeable to the Parties. The Check Meter location must allow for the Check Meter to be interconnected with Buyer'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 through the Telemetry System set forth in Section 3.09; *provided, however,* that the transmission of such meter data through the Telemetry System is permitted by the CAISO.

Buyer shall test and recalibrate the Check Meter at least once every Term Year. The Check Meter will be locked or sealed, and the lock or seal shall be broken only by a Buyer representative. Seller has the right to be present whenever such lock or seal is broken. Buyer shall replace the Check Meter battery at least once every 36 months;

provided, however, if the Check Meter battery fails, Buyer shall promptly replace such battery.

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

(i) Buyer shall routinely compare the Check Meter data to the CAISO-Approved Meter data.

(ii) If the deviation between the CAISO-Approved Meter data (after adjusting (1) for all appropriate compensation and correction factors applied, if applicable, by the CAISO to the CAISO-Approved Meter, or (2) for any deviation that may result due to the CAISO-Approved Meter and Check Meter being physically situated in different locations) and the Check Meter data for any comparison is greater than 0.3%, Buyer shall provide Notice to Seller of such deviation and the Parties shall mutually arrange for a meter check or recertification of the Check Meter or CAISO-Approved Meter, as applicable.

(iii) Each Party shall bear its own costs for any meter check or recertification.

(iv) Testing procedures and standards for the Check Meter will be the same as for a comparable Buyer-owned meter. Seller shall have the right to have representatives present during all such tests.

(v) The Check Meter is intended to be used for back-up purposes in the event of a failure or other malfunction of the CAISO-Approved Meter. Data from the Check Meter will only be used to validate the CAISO-Approved Meter data and, in the event of a failure or other malfunction of the CAISO-Approved Meter, in place of the CAISO-Approved Meter until such time that the CAISO-Approved Meter is certified.

3.09 Telemetry System.

(a) Seller is responsible for designing, furnishing, installing, maintaining and testing a real time Telemetry System in accordance with the CAISO Tariff provisions applicable to the Generating Facility. Seller has the right to request any exemption from such requirements from the CAISO so long as it is obtained pursuant to the CAISO Tariff.

(b) [Intentionally omitted.]

(c) Buyer agrees that, upon the CAISO's request, Buyer shall provide to the CAISO any telemetry data reasonably requested by the CAISO for operating information purposes.

3.10 Provision of Information.

(a) Within 30 days after the Effective Date, Seller shall provide to Buyer (to the extent not already in Buyer's possession), subject to Section 9.10:

(i) All currently operative agreements with providers of distribution, transmission or interconnection services for the Generating Facility and all amendments thereto;

(ii) Any currently operative filings at FERC, including any rulings, orders or other pleadings or papers filed by FERC, concerning the qualification of the Generating Facility as a Qualifying Facility;

(iii) Any Permits reasonably requested by Buyer concerning the Operation or licensing of the Generating Facility, and any applications or filings requesting or pertaining to such Permits;

(iv) Each of the following engineering documents for the Generating Facility:

1) Site plan drawings;

2) Electrical one-line diagrams;

3) Control and data acquisition details and configuration documents;

4) Major electrical equipment specifications;

5) Process flow diagrams;

6) Piping and instrumentation diagrams;

7) General arrangement drawings; and

8) Aerial photographs of the Site, if any; and

(v) Instrument specifications, installation instructions, operating manuals, maintenance procedures and wiring diagrams for the CAISO-Approved Meter(s) and the Telemetry System reasonably requested by Buyer.

(b) If applicable and subject to Section 9.10, as soon as possible, Seller shall provide to Buyer (i) engineering specifications and design drawings for the Telemetry System, and (ii) annual test reports for the CAISO-Approved Meters.

(c) Subject to Section 9.10 and upon Buyer's request, Seller shall make commercially reasonable efforts to provide Buyer with all documentation necessary for Buyer to comply with any discovery or data request for information from the CPUC, CEC,

FERC, any court, administrative agency, legislative body or other tribunal, which commercially reasonable efforts shall, at a minimum, include providing Buyer with all documentation regarding the Operational Characteristics, Project Specifications, Site Description, or past performance of the Generating Facility if such documentation is requested by the CPUC.

3.11 Progress Reporting. If the Generating Facility is a New Qualifying Facility, Seller shall use commercially reasonable efforts to meet the Milestone Schedule and shall advise Buyer as soon as reasonably practicable of any problems or issues of which Seller is aware which may materially impact its ability to meet the Milestone Schedule.

No later than the 10th day of each month while Seller has not yet met one or more milestones set forth in the Milestone Schedule, and within five days of Buyer's request, Seller shall, in accordance with Exhibit H, prepare and provide to Buyer a written report detailing Seller's progress toward meeting the Milestone Schedule.

Seller shall include in such report a list of all letters, notices and Permits to or from any Governmental Authority (and the CAISO) applicable to Seller's effort to meet the Milestone Schedule, and shall provide any such documents as may be reasonably requested on Notice from Buyer.

3.12 Fuel Supply. Seller shall supply all fuel required for the Power Product and any testing or demonstration of the Generating Facility.

3.13 Capacity Verification; Resource Adequacy Demonstrations.

(a) If the Generating Facility is (i) a New Qualifying Facility, or (ii) as set forth in Section 5.2.4.4 of the Settlement Agreement, an Existing Qualifying Facility that is Operating in California but that has never entered into an agreement for the purchase and sale of electric energy with Buyer or any other California investor-owned utility, then Seller shall deliver to Buyer a certificate, including all supporting data, from a qualified independent California-licensed professional engineer (the "Contract Capacity Confirmation Certificate"), which Contract Capacity Confirmation Certificate must set forth the Contract Capacity as demonstrated to and determined by such engineer. To the extent the Contract Capacity set forth in Section 1.02(d) on the Effective Date and the Contract Capacity set forth in the Contract Capacity Confirmation Certificate or as otherwise demonstrated in accordance with Exhibit C are different, Section 1.02(d) will be adjusted to reflect the Contract Capacity set forth in the Contract Capacity Confirmation Certificate or as otherwise demonstrated in accordance with Exhibit C.

(b) [Intentionally omitted.]

(c) [Intentionally omitted.]

(d) If the Product includes Capacity Attributes or Resource Adequacy Benefits, Seller shall comply with any demonstration required for Resource Adequacy Rulings; provided, however, if such demonstrations could interfere with the operations of Seller, Seller shall be entitled to challenge such requirements with the CPUC or other relevant agency. Absent a ruling or other action granting a stay, compliance shall be required pending resolution of the challenge.

3.14 Operation and Record Keeping. Seller shall:

(a) Operate the Generating Facility in accordance with Prudent Electrical Practices;

(b) Comply with the Forecasting requirements, as set forth in Exhibit I;

(c) Use reasonable efforts to operate the Generating Facility so that the Power Product conforms with the Forecast provided in accordance with Exhibit I;

(d) Pay all CAISO Charges, as set forth in Exhibit J;

(e) Pay all SDD Adjustments for which Seller is responsible, as set forth in Exhibit K;

(f) Comply with the Outage scheduling procedures, as set forth in Exhibit R;

(g) Comply with the Outage Schedule Submittal Requirements, as set forth in Exhibit R;

(h) Use reasonable efforts to deliver the maximum possible quantity of Contract Capacity and associated electric energy during an Emergency Condition or a System Emergency;

(i) Use reasonable efforts to reschedule any outage that occurs during an Emergency Condition or a System Emergency;

(j) Keep a daily Operating log for the Generating Facility that includes information on availability, outages, circuit breaker trip operations requiring a manual reset, and any significant events related to the Operation of the Generating Facility, including:

(i) Real and reactive power production;

(ii) Changes in Operating status;

(iii) Protective apparatus operations; and

(iv) Any unusual conditions found during inspections;

(k) Keep all Operating records required of a Qualifying Facility by any applicable CPUC order as well as any additional information that may be required of a Qualifying Facility in order to demonstrate compliance with all applicable California utility industry standards which have been adopted by the CPUC;

(l) Provide copies of all daily Operating logs and Operating records to Buyer within 20 days of a Notice from Buyer;

(m) Provide, upon Buyer's request, all reports of actual or forecasted outages that Buyer may reasonably require for the purpose of enabling Buyer 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 facilities under contract to supply electric energy;

(n) Pay all Scheduling Fees, as set forth in Exhibit G;

(o) [Intentionally omitted]

(p) Register with the NERC as the Generating Facility's Generator Owner and Generator Operator if Seller is required to register by the NERC;

(q) Maintain documentation of all procedures applicable to the testing and maintenance of the Generating Facility protective devices as necessary to comply with the NERC Reliability Standards applicable to protection systems for electric generators if Seller is required to maintain such documentation by the NERC;

(r) If Buyer is Scheduling Coordinator, then at least 30 days before the Term End Date, or in accordance with Section 7(a) of Exhibit G, or as soon as practicable before the date of an early termination of this Agreement, (i) submit to the CAISO the name of the Scheduling Coordinator that will replace Buyer, and (ii) cause the Scheduling Coordinator that will replace Buyer to submit a letter to the CAISO accepting the designation as Seller's Scheduling Coordinator;

(s) If Buyer is not Scheduling Coordinator:

(i) Cause its Scheduling Coordinator to submit a Self-Schedule of Seller's Day-Ahead Forecast associated with the Generating Facility through the IFM; Seller shall then submit the quantity associated with the Self-Schedule of Seller's Day-Ahead Forecast as a Physical Trade to Buyer in the IFM, specifying the generating resource identifier and all other CAISO-required Inter-SC Trade attributes;

(ii) Cause its Scheduling Coordinator to submit the IFM Day-Ahead Schedule quantity associated with the Generating Facility as an Inter-SC Trade of

IFM Load Uplift Obligation to Buyer to be cleared through the Real-Time Market, specifying all CAISO-required Inter-SC Trade attributes; and

(iii) Make available to Buyer all CAISO settlement data with respect to the Generating Facility required to validate payments made under this Agreement; and

(t) Operate the Generating Facility so that the Power Product conforms with Buyer's instructions on Economic Dispatch Down and CAISO dispatch instructions.

3.15 Power Product Curtailments at Transmission Provider's or CAISO's Request.

(a) Seller shall promptly curtail the production of the Power Product upon receipt of a notice or instruction from the CAISO, which may be communicated by Buyer if Buyer is the Scheduling Coordinator. Such notice or instruction shall only be provided when the CAISO orders curtailment and the Scheduling Coordinator implements such curtailment in compliance with the CAISO Tariff or applicable orders to avoid or address a declared System Emergency.

(b) Seller shall promptly curtail the production of the Power Product upon receipt of a notice or instruction from the Transmission Provider, which may be communicated by Buyer if Buyer is the Scheduling Coordinator. Such notice or instruction shall only be provided when curtailment of the Power Product is required to comply with:

(i) A CAISO curtailment declared pursuant to Section 3.15(a) or Transmission Provider declared Emergency Condition, subject to the interconnection agreement between Seller and the Transmission Provider; or

(ii) Transmission Provider's maintenance requirements, subject to the interconnection agreement between Seller and the Transmission Provider.

(c) Notwithstanding the above, except as may be required in order to respond to any Emergency Condition or System Emergency, Buyer shall, consistent with FERC Order 888 and the interconnection agreement between Seller and the Transmission Provider and with the applicable provisions of the CAISO Tariff:

(i) Use reasonable good faith efforts to coordinate Transmission Provider's curtailment needs with Seller to the extent it can influence such needs; or

(ii) Request the Transmission Provider and CAISO limit the curtailment duration.

(d) If Seller has entered into a QF PGA or PGA with the CAISO, or an interconnection agreement, the terms of the applicable QF PGA or PGA and the

applicable interconnection agreement with respect to CAISO or Transmission Provider curtailments, shall govern the rights and obligations of Buyer and Seller to the extent any provision of this Section 3.15 is inconsistent with such applicable QF PGA or PGA, and interconnection agreement.

(e) In the event Seller interconnects with a Transmission Provider other than the CAISO, Seller shall adhere to any reliability curtailment order by such Transmission Provider pursuant to the applicable tariff provisions of such Transmission Provider.

3.16 Report of Lost Output. To the extent the conditions set forth in Sections 3.16(a) through (e) occur, Seller shall prepare and provide to Buyer, by the fifth Business Day following the end of each month during the Term, a lost output report. The lost output report shall identify the date, time, duration, cause and amount by which the Metered Amounts were reduced below the Seller's Energy Forecast due to:

(a) Outages;

(b) major overhauls;

(c) CAISO or Transmission Provider-ordered curtailments;

(d) Force Majeure; or

(e) Forced Outages.

3.17 FERC Qualifying Facility Status.

(a) If the Generating Facility is a "qualifying cogeneration facility", as contemplated in 18 CFR Section 292.205, then within 30 Business Days following the end of each year, and within 30 Business Days following the Term End Date, Seller shall provide to Buyer:

(i) Subject to Section 9.10, a completed copy of Buyer's "QF Efficiency Monitoring Program – Cogeneration Data Reporting Form", substantially in the form of Exhibit T-1, with calculations and verifiable supporting data, which demonstrates the compliance of the Generating Facility with qualifying cogeneration facility operating and efficiency standards set forth in 18 CFR Part 292, Section 292.205 "Criteria for Qualifying Cogeneration Facilities", for the applicable year; and

(ii) A copy of a FERC order waiving for the Generating Facility the applicable operating and efficiency standards for qualifying cogeneration facilities, as contemplated in 18 CFR Part 292, Section 292.205, "Criteria for Qualifying Cogeneration Facilities", for the applicable year, if Seller has received such order from the FERC.

(b) If Generating Facility is a "qualifying small power production facility", as contemplated in 18 CFR Section 292.203, then within 30 Business Days following the end of each year, and within 30 Business Days following the Term End Date, Seller shall provide to Buyer:

(i) Subject to Section 9.10, a completed copy of Buyer's "Fuel Use Standards – Small Power Producer Data Reporting Form", substantially in the form of Exhibit T-2, with calculations and verifiable supporting data, which demonstrates the compliance of the Generating Facility with qualifying small power production facility fuel use standards set forth in 18 CFR Part 292, Section 292.204, "Criteria for Qualifying Small Power Production Facilities", for the applicable year; and

(ii) A copy of a FERC order waiving for the Generating Facility, the applicable operating and fuel use standards for qualifying small power production facilities, as contemplated in 18 CFR Part 292, Section 292.204, "Criteria for Qualifying Small Power Production Facilities", for the applicable year, if Seller has received such order from the FERC.

(c) Seller shall take all necessary steps, including making or supporting timely filings with the FERC in order to maintain, or obtain a FERC waiver of, the Qualifying Facility status of the Generating Facility throughout the Term; *provided, however,* that this obligation does not apply to the extent Seller is unable to maintain Qualifying Facility status using commercially reasonable efforts because of (i) a change in PURPA or in regulations of the FERC implementing PURPA occurring after the Effective Date, or (ii) a change in Applicable Laws directly impacting the Qualifying Facility status of the Generating Facility occurring after the Effective Date.

The term "commercially reasonable efforts" in this Section 3.17(c) does not require Seller to pay or incur more than $20,000 multiplied by the number of Term Years in the Term.

3.18 Notice of Cessation or Termination of Service Agreements. Seller shall provide Notice to Buyer within one Business Day if there is a termination of, or cessation of service under, any agreement required in order for the Generating Facility to:

(a) Interconnect with the Transmission Provider's electric system;

(b) Transmit and deliver electric energy to the Delivery Point; or

(c) Own and operate any CAISO-Approved Meter.

3.19 Buyer's Access Rights.

(a) Upon providing at least one Business Day advance Notice to Seller, or as set forth in any Applicable Law (whichever is later), Buyer has the right to examine the Site, the Generating Facility and the Operating records, provided that Buyer follows Seller's safety policies and procedures that Seller has communicated to Buyer, does not interfere with or hinder Seller's Operations, and agrees to escorted access to the Generating Facility during regular business hours for:

(i) Any purpose reasonably connected with this Agreement;

(ii) The exercise of any and all rights of Buyer under Applicable Law or its tariff schedules and rules on file with the CPUC; or

(iii) The inspection and testing of any Check Meter, CAISO-Approved Meter or the Telemetry System.

(b) Seller shall promptly provide Buyer access to all meter data and data acquisition services both in real-time, and at later times, as Buyer may reasonably request. Seller shall promptly inform Buyer of meter quantity changes after becoming aware of, or being informed of, any such changes by the CAISO. Seller shall provide instructions to the CAISO granting authorizations or other documentation sufficient to provide Buyer with access to the CAISO-Approved Meter and to Seller's settlement data on MRI-S.

3.20 Seller Financial Information.

(a) The Parties shall determine, through consultation and review with their respective independent registered public accounting firms, whether Buyer is required to consolidate Seller's financial statements with Buyer'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 Buyer accounting treatment for this Agreement (the "Financial Consolidation Requirement").

(b) If the Parties mutually agree that the Financial Consolidation Requirement is applicable, then:

(i) Within 20 days following the end of each year (for each year that such treatment is required), Seller shall deliver to Buyer unaudited financial statements and related footnotes of Seller as of the end of the year. It is permissible for Seller to use accruals and prior month's estimates with true-up to actual activity, in subsequent periods, when preparing the unaudited financial statements.

The annual financial statements should include quarter-to-date and yearly information. Buyer shall provide to Seller a checklist before the end of each year listing the items which Buyer believes are material to Buyer 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 month's estimates with true-up to actual activity, in subsequent periods, when preparing the information on the checklist.

If audited financial statements are prepared for Seller for the year, Seller shall provide such statements to Buyer within five Business Days after those statements are issued.

(ii) Within 15 days following the end of each fiscal quarter (for each quarter that such treatment is required), Seller shall deliver to Buyer unaudited financial statements and related footnotes of Seller as of the end of the quarterly period.

The financial statements should include quarter-to-date and year-to-date information. Buyer shall provide to Seller a checklist before the end of each quarter listing items which Buyer believes are material to Buyer 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 month's estimates with true-up to actual activity, in subsequent periods, when preparing the unaudited financial statements.

(iii) If Seller regularly prepares its financial data in accordance GAAP, the International Financial Reporting Standards ("IFRS"), or any successor to either of the foregoing ("Successor"), the financial information provided to Buyer 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, IFRS or Successor, the information provided to Buyer 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 Parties mutually agree that the Financial Consolidation Requirement is applicable, then promptly upon Notice from Buyer, Seller shall allow Buyer's independent registered public accounting firm such access to Seller's records and personnel, as reasonably required so that Buyer'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 shall be borne by Buyer.

If Buyer's independent registered public accounting firm during or as a result of the audits permitted in this Section 3.20(c) determines a material weakness or significant deficiency, as defined by GAAP, IFRS or Successor, as applicable, exists in Seller's internal controls over financial reporting, then within 90 days of Seller's receipt of Notice from Buyer, 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) Buyer shall treat Seller's financial statements and other financial information provided under the terms of this Section 3.20 in strict confidence and, accordingly:

(i) Shall utilize such Seller financial information *only* for purposes of preparing, reviewing or certifying Buyer's or any Buyer parent company financial statements, for making regulatory, tax or other filings required by law in which Buyer 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 Buyer's or any Buyer parent company financial statements, to the SEC and the Public Company Accounting Oversight Board (United States) in connection with any oversight of Buyer's or any Buyer parent company financial statement and to those Persons who are entitled to receive confidential information as identified in Sections 9.10(a)(vi) and 9.10(a)(vii); and

(iii) Buyer shall ensure that its internal auditors and independent registered public accounting firm (1) treat as confidential any information disclosed to them by Buyer pursuant to this Section 3.20, (2) use such information solely for purposes of conducting the audits described in this Section 3.20, and (3) disclose any information received only to personnel responsible for conducting the audits.

(e) If the Parties mutually agree that the Financial Consolidation Requirement is applicable, then, within two Business Days following the occurrence of any event affecting Seller which Seller understands, during the Term, would require Buyer to disclose such event in a Form 8-K filing with the SEC, Seller shall provide to Buyer a Notice describing such event in sufficient detail to permit Buyer to make a Form 8-K filing.

(f) If, after consultation and review, the Parties do not agree on issues raised by Section 3.20(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 independent audit firm will render its recommendation on whether consolidation by Buyer is required. Based on this recommendation, Seller and Buyer shall mutually agree on how to resolve the dispute. If Seller fails to provide the data consistent with the mutually agreed upon resolution, Buyer may declare an Event of Default pursuant to Section 6.01. If Buyer's independent audit firm, after the review by the third independent audit firm still determines that Buyer must consolidate, then Seller shall provide the financial information necessary to permit consolidation to Buyer; *provided, however,* that in addition to the protections in Section 3.20(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.

3.21 NERC Electric System Reliability Standards. During the Term, for purposes of complying with any NERC Reliability Standards applicable to the Generating Facility, Seller (or an agent of Seller as agreed to by Buyer in its reasonable discretion) must, if required by the NERC, register with the NERC as the Generator Operator and the Generator Owner for the Generating Facility and must perform all Generator Operator Obligations and Generator Owner Obligations except those Generator Operator Obligations that Buyer, in its capacity as Scheduling Coordinator (if Seller has elected to have Buyer serve as its Scheduling Coordinator), is required to perform under this Agreement or under the CAISO Tariff.

Notwithstanding anything to the contrary set forth in this Section 3.21 and subject to the indemnity obligations set forth in Section 9.04(h), each Party acknowledges that such Party's performance of the Generator Operator Obligations or Generator Owner Obligations may not satisfy the requirements for self-certification or compliance with the NERC Reliability Standards, and that it shall be the sole responsibility of each Party to implement the processes and procedures required by the NERC, the WECC, the CAISO, or a Governmental Authority in order to comply with the NERC Reliability Standards.

If Buyer is Seller's Scheduling Coordinator, Buyer as Scheduling Coordinator will reasonably cooperate with Seller to the extent necessary to enable Seller to comply and for Seller to demonstrate Seller's compliance with the NERC Reliability Standards referenced above. Buyer's cooperation will include providing to Seller, or such other Person as Seller designates in writing, information in Buyer's possession that Buyer as Scheduling Coordinator has provided to the CAISO related to the Generating Facility or actions that Buyer has taken as Scheduling Coordinator related to Seller's compliance with the NERC Reliability Standards referenced above (e.g., Seller's notices and updates provided by Buyer to the CAISO). Buyer may, in its reasonable discretion (depending

upon the quantity of information requested by Seller and the timeframe established by Seller for compliance), comply with the requirement to provide information set forth in the previous sentence, by making such information available for inspection by Seller or by providing responsive summaries or excerpts of same, so long as the foregoing enables Seller to comply with the NERC Reliability Standards. In addition, Buyer may redact any information or data that is confidential to Buyer from materials or information to be supplied to Seller.

3.22 Allocation of Availability Incentive Payments and Non-Availability Charges. Seller agrees that 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. The Parties agree that any Availability Incentive Payments are for the benefit of the Seller and for Seller's account and that any Non-Availability Charges are the responsibility of the Seller and for Seller's account.

3.23 Seller's Reporting Requirements.

(a) Seller shall deliver to Buyer, on or before the 10th Business Day following receipt of a Notice from Buyer, such information that Buyer is required to report to any authorized Governmental Authority pursuant to the Settlement Agreement, or which Buyer otherwise requires in order to comply with the Settlement Agreement

(b) Seller shall deliver a Notice to Buyer upon the issuance of any update to CAISO's Net Qualifying Capacity Report, which Notice shall be delivered promptly after the issuance thereof and shall include disclosure of any discrepancies in the Net Qualifying Capacity Report relating to the Generating Facility. If there are any such discrepancies, Seller shall reasonably cooperate with the Scheduling Coordinator to seek the CAISO's correction thereof in the final Net Qualifying Capacity Report.

*** *End of Article Three* ***

ARTICLE FOUR. BUYER'S OBLIGATIONS

4.01 Obligation to Pay. For Seller's full compensation under this Agreement, during the Term, Buyer shall make a monthly payment (a "Monthly Contract Payment") calculated in accordance with Exhibit D.

4.02 Payment Adjustments.

(a) Buyer shall adjust each Monthly Contract Payment to Seller to account for:

(i) Scheduling Fees owed by Seller to Buyer, as set forth in Exhibit G;

(ii) Any SDD Adjustment, as set forth in Exhibit K;

(iii) Any Forecast penalties owed by Seller to Buyer, as set forth in Exhibit I;

(iv) Any CAISO Charges owed by Seller to Buyer, as set forth in Exhibit J;

(v) Any Physical Trade Settlement Amount owed by either Party to the other Party, as set forth in Exhibit L;

(vi) Any SC Trade Settlement Amount owed by either Party to the other Party, as set forth in Exhibit M;

(vii) Any payment adjustments (including adjustments to CAISO Charges) provided for under this Agreement;

(viii) Any Governmental Charges owed by either Party to the other Party, as set forth in Section 8.02;

(ix) The agreement of the Parties that Buyer shall have no liability to make any energy payments to Seller for any electricity deliveries, which total shall include all Deemed Delivered Energy calculated for the Term Year, from the Generating Facility in a Term Year that exceed 120% of Expected Term Year Energy Production; and

(x) Any Deemed Delivered Energy payments owed to Seller in accordance with Exhibit U.

(b) During the Term, any payment adjustments will be added to or deducted from a subsequent regular Monthly Contract Payment that is made by Buyer to Seller after the expiration of a 30-day period which begins upon Buyer's receipt of all of the information required in order to calculate payment adjustments.

(c) After the Term End Date, Buyer shall invoice Seller for all payment adjustments within 60 days of Buyer's receipt of all of the information required in order to calculate payment adjustments.

4.03 Payment Statement and Payment.

(a) No later than 30 days after the end of each calendar month (or the last day of the month if the month in which the payment statement is being sent is February), or the last Business Day of the month if such 30th day (or 28th or 29th day for February) is not a Business Day, Buyer shall mail to Seller:

(i) A table showing the hourly electric energy quantities for each of the following, in MWh per hour:

1) Seller's Energy Forecast;

2) Seller's Day-Ahead Forecast; and

3) Metered Amounts.

(ii) A statement showing:

1) TOD Period subtotals and overall monthly totals for each of the items set forth in Section 4.03(a)(i);

2) A calculation of the Monthly Contract Payment, as set forth in Exhibit D;

3) A calculation of any payment adjustments pursuant to Section 4.02; and

4) A calculation of the net dollar amount due for the month.

(iii) Buyer's payment to Seller, in accordance with Section 9.16, in the net dollar amount owed to Seller for the month; *provided, however,* in the event the statement shows a net amount owed to Buyer, Seller shall pay such amount within 20 days of the statement date or, if Seller fails to make such payment, Buyer may offset this amount from a subsequent Monthly Contract Payment.

(b) If Buyer determines that a calculation of Metered Amounts is incorrect as a result of an inaccurate meter reading or the correction of data by the CAISO in the CAISO's meter-data acquisition and processing system, Buyer shall promptly recompute the Metered Amounts quantity for the period of the inaccuracy based on an adjustment of such inaccurate meter reading in accordance with the CAISO Tariff.

Buyer shall then promptly recompute any payment or payment adjustment affected by such inaccuracy. Any amount due from Buyer to Seller or Seller to Buyer, as the case may be, shall be made as an adjustment to the next monthly statement that is calculated after Buyer's recomputation using corrected measurements.

If the recomputation results in a net amount owed to Buyer after offsetting any amounts owing to Seller as shown on the next monthly statement, any such additional amount still owing to Buyer shall be shown as an adjustment on Seller's monthly statement until such amount is fully collected by Buyer.

At Buyer's sole discretion, Buyer may offset any remaining amount owed to Buyer in any subsequent monthly payments to Seller or invoice Seller for such amount, in which case Seller must pay the amount owing to Buyer within 20 days of receipt of such invoice.

(c) Buyer reserves the right to deduct amounts that would otherwise be due to Seller under this Agreement from any amounts owing and unpaid by Seller to Buyer:

(i) Under this Agreement; or

(ii) Arising out of or related to any other agreement, tariff, obligation or liability pertaining to the Generating Facility.

(d) Except as provided in Section 4.03(b) and as otherwise provided in this Section 4.03(d), if, within 45 days of receipt of Buyer's payment statement, Seller does not give Notice to Buyer of an error, then Seller shall be deemed to have waived any error in Buyer's statement, computation and payment and the statement shall be conclusively deemed correct and complete; *provided, however,* that if an error is identified by Seller as a result of settlement, audit or other information provided to Seller by the CAISO after the expiration of the original 45-day period, Seller shall have an additional 90 days from the date on which it receives the information from the CAISO in which to give Notice to Buyer of the error identified by such settlement, audit or other information.

If Seller identifies an error in Seller's favor and Buyer agrees that the identified error occurred, Buyer shall reimburse Seller for the amount of the underpayment caused by the error and add the underpayment to the next monthly statement that is calculated.

If Seller identifies an error in Buyer's favor and Buyer agrees that the identified error occurred, Seller shall reimburse Buyer for the amount of overpayment caused by the error and Buyer shall apply the overpayment to the next monthly statement that is calculated.

If the recomputation results in a net amount still owing to Buyer after applying the overpayment, the next monthly statement shall show a net amount owing to Buyer.

At Buyer's sole discretion, Buyer may apply this net amount owing to Buyer in any subsequent monthly statements to Seller or invoice Seller for such amount, in which case Seller must pay the amount owing to Buyer within 20 days of receipt of such invoice.

The Parties shall negotiate to resolve any disputes regarding claimed errors in a statement. Any disputes which the Parties are unable to resolve through negotiation may be submitted for resolution through the dispute resolution procedure in Article Ten.

Nothing in this Section 4.03 limits a Party's rights under applicable tariffs, other agreements or Applicable Law.

4.04 [Intentionally Omitted.]

4.05 No Representation by Buyer. Any review by Buyer of the design, engineering, construction, testing and Operation of the Generating Facility is solely for Buyer's information. Buyer makes no representation that:

(a) It has reviewed the financial viability, technical feasibility, operational capability, or long-term reliability of the Generating Facility;

(b) The Generating Facility complies with any Applicable Laws; or

(c) The Generating Facility will be able to meet the terms of this Agreement.

Seller shall in no way represent to any third party that any such review by Buyer constitutes any such representation.

4.06 Buyer's Responsibility. Buyer shall obtain and maintain all distribution, transmission and interconnection rights and agreements (including all Governmental Authority approvals) required to enable transmission and delivery of electric energy at and after the Delivery Point.

4.07 Buyer's Reporting Requirements. Buyer shall deliver to Seller, on or before the 10th Business Day following receipt of a Notice from Seller, such information as Seller is required to report to any authorized Governmental Authority pursuant to the Settlement Agreement, or which Seller otherwise requires in order to comply with the Settlement Agreement.

**** End of Article Four ****

ARTICLE FIVE. FORCE MAJEURE

5.01 No Default for Force Majeure. Neither Party will 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.

5.02 Requirements Applicable to the Claiming Party. If a Party, because of Force Majeure, is rendered wholly or partly unable to perform its obligations when due under this Agreement, such Party (the "Claiming Party") shall be excused from whatever performance is affected by the Force Majeure to the extent so affected.

In order to be excused from its performance obligations under this Agreement by reason of Force Majeure:

(a) The Claiming Party, within 14 days after the initial occurrence of the claimed Force Majeure, must give 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 suspension of the Claiming Party's performance due to Force Majeure may not be greater in scope or longer in duration than is required by such Force Majeure.

In addition, the Claiming Party shall use diligent efforts to remedy its inability to perform.

This Article Five will 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. It is understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes shall be at the sole discretion of the Claiming Party.

When the Claiming Party is able to resume performance of its obligations under this Agreement, the Claiming Party shall give the other Party prompt Notice to that effect.

5.03 Termination. Either Party may terminate this Agreement on Notice, which Notice will be effective five Business Days after such Notice is provided, in the event of Force Majeure which materially interferes with such Party's ability to perform its obligations under this Agreement and which extends for more than 365 consecutive days, or for more than a total of 365 days in any consecutive 540-day period.

**** End of Article Five ****

ARTICLE SIX. EVENTS OF DEFAULT; REMEDIES

6.01 Events of Default. An "Event of Default" means the occurrence of any of the following:

(a) With respect to either Party (a "Defaulting Party"):

(i) Any representation or warranty made by such Party in this Agreement 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, if such misrepresentation or breach of warranty is not:

1) Remedied within 10 Business Days after Notice from the Non-Defaulting Party to the Defaulting Party; or

2) Capable of a cure, but the Non-Defaulting Party's damages resulting from such misrepresentation or breach of warranty can reasonably be ascertained and the payment of such damages is not made within 10 Business Days after a Notice of such damages is provided by the Non-Defaulting Party to the Defaulting Party;

(ii) Except for an obligation to make payment when due, the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default or to the extent excused by a Force Majeure) if such failure is not remedied within 30 days after Notice of such failure is provided by the Non-Defaulting Party to the Defaulting Party, which Notice sets forth in reasonable detail the nature of the Event of Default; *provided, however,* that if the Event of Default is not reasonably capable of being cured within such 30-day cure period, the Defaulting Party shall have such additional time (not to exceed 120 days) as is reasonably necessary to cure such Event of Default, so long as such Defaulting Party promptly commences and diligently pursues such cure;

(iii) A Party fails to make when due any payment (other than amounts disputed in accordance with the terms of this Agreement) due and owing under this Agreement and such failure is not cured within five Business Days after Notice is provided by the Non-Defaulting Party to the Defaulting Party of such failure;

(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 Person and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee Person fails to assume all the obligations

of such Party under this Agreement to which such Party or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party.

(b) With respect to Seller's Guarantor, if any (each event listed below to be deemed an Event of Default with respect to Seller):

(i) 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 if the representation or warranty is continuing in nature and the misrepresentation or breach of warranty is not remedied within 10 Business Days after Notice from Buyer to Seller;

(ii) The failure of a Guarantor to make any payment required or to perform any other material covenant or obligation in any Guaranty Agreement and such failure is not remedied within five Business Days after Notice from Buyer to Seller;

(iii) A Guarantor becomes Bankrupt and replacement credit support is not provided within five Business Days after Notice from Buyer to Seller;

(iv) The occurrence and continuation of a default, event of default or other similar condition or event under one or more agreements or instruments, individually or collectively, relating to indebtedness for borrowed money in the aggregate amount of not less than the Guarantor Cross Default Amount, which results in such indebtedness becoming immediately due and payable and replacement credit support is not provided within five Business Days after Notice from Buyer to Seller;

(v) The failure of any Guaranty Agreement to be in full force and effect for purposes of this Agreement (other than in accordance with its terms) and replacement credit support is not provided within five Business Days after Notice from Buyer to Seller;

(vi) The Guarantor repudiates, disaffirms, disclaims, or rejects, in whole or in part, or challenges the validity of any Guaranty Agreement given to Buyer and replacement credit support is not provided within five Business Days after Notice from Buyer to Seller; or

(vii) If the Guarantor fails to maintain a Credit Rating of at least (1) BBB- from S&P and Baa3 from Moody's, if Guarantor is rated by both ratings agencies or (2) BBB- by S&P or Baa3 by Moody's, if Guarantor is rated by only one of the ratings agency, and replacement credit support is not provided within 10 Business Days after Notice from Buyer to Seller.

(c) With respect to Seller:

(i) Seller does not own or lease the Generating Facility or otherwise have the authority over the Generating Facility as required in Section 3.03(a), and Seller has not cured a failure with respect to Section 3.03(a) within 30 days after providing Notice to Buyer in accordance with Section 3.03(a);

(ii) If Seller abandons the Generating Facility (for purposes of this Section 6.01(c)(ii), Seller will be deemed to have abandoned the Generating Facility if Seller has ceased work on the Generating Facility or the Generating Facility has ceased production and delivery of the Product for a consecutive thirty (30) day period and such cessation is not a result of an event of Force Majeure);

(iii) Except as provided for in Section 3.01(d), Seller (1) conveys, transfers, allocates, designates, awards, reports or otherwise provides any and all of the Product, or any portion thereof, or any benefits derived therefrom, to any party other than Buyer (except as may relate to transactions in the imbalance market arising from ordinary course deviations between Metered Amounts and electric energy Scheduled to Buyer), or (2) starts up or Operates the Generating Facility per instruction of or for the benefit of any third party (except in order to satisfy the Site Host Load, or as required by other Applicable Laws);

(iv) Seller intentionally or knowingly delivers, Schedules, or attempts to deliver or Schedule at the Delivery Point for sale under this Agreement electric energy that was not generated by the Generating Facility;

(v) Seller removes from the Site equipment upon which the Contract Capacity has been based, except for the purposes of replacement, refurbishment, repair, repowering or maintenance, and such equipment is not returned within five Business Days after Notice from Buyer to Seller;

(vi) [Intentionally omitted.]

(vii) Termination of, or cessation of service under, any agreement necessary for the interconnection of the Generating Facility to the Transmission Provider's electric system for transmission and delivery of the electric energy from the Generating Facility to the Delivery Point, or for metering the Metered Amounts, and such service is not reinstated, or alternative arrangements implemented, within 120 days after such termination or cessation;

(viii) Seller fails to make all reasonable efforts to increase the Power Output from the Generating Facility to the Contract Capacity during an Emergency Condition or a System Emergency;

(ix) Seller fails to provide any financial statements or other information within the timeframe and in the manner set forth in Sections 3.20(b)(i) and (ii), and such failure is not remedied within 10 days after Notice from Buyer to Seller;

(x) Seller fails to remediate any material weakness or significant deficiency in internal controls over financial reporting in accordance with Section 3.20(c), and such failure is not remedied within 90 days after Notice from Buyer to Seller;

(xi) Seller fails to take all reasonable actions and execute all documents or instruments that are reasonable and necessary to effectuate the use of the Related Products for Buyer's benefit throughout the Term as specified in Section 3.01, if such failure is not remedied within 10 days after Notice of such failure is provided by Buyer to Seller, which Notice sets forth in reasonable detail the nature of the Event of Default; *provided, however,* that if the Event of Default is not reasonably capable of being cured within such 10-day cure period, Seller shall have such additional time (not to exceed 120 days) as is reasonably necessary to cure such Event of Default, so long as Seller promptly commences and diligently pursues such cure;

(xii) [Intentionally omitted.]

(xiii) If any failure by Seller to comply with the CAISO Tariff materially impacts Buyer's ability to comply with this Agreement, the CAISO Tariff or other Applicable Laws, and such failure by Seller (including any consequences suffered by Buyer) is not cured within 30 days after Notice from Buyer to Seller;

(xiv) If Seller materially modifies or repowers the Generating Facility:

1) Without Buyer's prior written consent; or

2) For modifications or repowerings that have the effect of converting the Generating Facility to a New Qualifying Facility, Seller does not follow the terms of this Agreement with respect to all obligations and requirements applicable to New Qualifying Facilities;

(xv) If Seller fails to satisfy all of the conditions set forth in Section 2.01 before the Term Start Date, and such failure is not cured within 30 Business Days after Notice from Buyer to Seller; or

(xvi) If the Generating Facility is a New Qualifying Facility:

1) Seller fails to satisfy the creditworthiness and collateral requirements in Sections 2 and 3 of Exhibit F and such failure is not cured within five Business Days after Notice is provided by Buyer to Seller;

2) The stock or equity ownership interest in Seller has been pledged or assigned as collateral or otherwise to any party other than Lender without Buyer's consent, which consent may not be unreasonably withheld, delayed or conditioned;

3) Seller fails to post and maintain the Development Security pursuant to Section 4(b) of Exhibit F and such failure is not cured within five Business Days after Notice of such failure from Buyer to Seller;

4) Seller fails to post and maintain the Performance Assurance Amount pursuant to Section 2 of Exhibit F and such failure is not cured within five Business Days after Notice of such failure from Buyer to Seller;

5) The occurrence and continuation of a default, event of default or other similar condition or event under any loan agreement with any Lender, or any other related agreement or instrument with or for the benefit of any Lender, which results in any indebtedness under those agreements or instruments becoming immediately due and payable; *provided, however,* if Seller, Buyer and a Lender have entered into a Collateral Assignment Agreement with substantially the provisions set forth in Section 9.06, and the terms of such Collateral Assignment Agreement conflict or are inconsistent with this Section 6.01(c)(xvi)(5), the provisions of the Collateral Assignment Agreement control;

6) The occurrence and continuation of a default, event of default or other similar condition or event under any power purchase agreement between Buyer and Seller (other than this Agreement) or under any other related agreement or instrument with or for the benefit of Buyer; or

7) Subject to Section 3.17(c), the Generating Facility (A) is not designed and constructed so as to satisfy all of the requirements applicable to a Qualifying Facility, or (B) fails to maintain its status as a Qualifying Facility during the Term; or

(xvii) If the Generating Facility is an Existing Qualifying Facility, then, at any time on or, subject to Section 3.17(c), after the Effective Date, the Generating Facility fails to maintain its status as a Qualifying Facility.

6.02 Early Termination. If an Event of Default has occurred, there will be no opportunity for cure except as specified in Section 6.01 or pursuant to a Collateral Assignment Agreement agreed upon by Buyer, Seller and Lender in accordance with Section 9.06. The Party taking the default (the "Non-Defaulting Party") will have the right to:

(a) Designate by Notice to the Defaulting Party a date, no later than 20 days after the Notice is effective, for the early termination of this Agreement (an "Early Termination Date");

(b) Immediately suspend performance under this Agreement; and

(c) 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.

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 sum of all amounts owed by the Defaulting Party under this Agreement less any amounts owed by the Non-Defaulting Party to the Defaulting Party under this Agreement, including any Forward Settlement Amount (the "Termination Payment"). The Notice shall 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 Generating Facility is a New Qualifying Facility, no Forward Settlement Amount is assessed for any Termination Payment due to Buyer as the Non-Defaulting Party by Seller as the Defaulting Party if this Agreement is terminated before the Term Start Date.

If the Termination Payment is positive, the Defaulting Party shall pay such amount to the Non-Defaulting Party within 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 10 Business Days after the Notice is provided.

The Parties shall negotiate to resolve any disputes regarding the calculation of the Termination Payment and Forward Settlement Amount. Any disputes which the Parties

are unable to resolve through negotiation may be submitted for resolution through the dispute resolution procedure in Article Ten.

**** End of Article Six ****

ARTICLE SEVEN. LIMITATIONS OF LIABILITIES

EXCEPT AS SET FORTH IN THIS ARTICLE SEVEN, 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 IS THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY IS 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.

IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, THE OBLIGOR'S LIABILITY IS LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES IS THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

THE VALUE OF ANY PRODUCTION TAX CREDITS DETERMINED ON AN AFTER-TAX BASIS, LOST DUE TO BUYER'S DEFAULT (WHICH SELLER HAS NOT BEEN ABLE TO MITIGATE AFTER USE OF REASONABLE EFFORTS) IF ANY, SHALL BE DEEMED DIRECT DAMAGES.

THE VALUE OF ANY INVESTMENT TAX CREDITS DETERMINED ON AN AFTER-TAX BASIS, LOST DUE TO BUYER'S DEFAULT (WHICH SELLER HAS NOT BEEN ABLE TO MITIGATE AFTER USE OF REASONABLE EFFORTS) IF ANY, SHALL BE DEEMED DIRECT DAMAGES.

UNLESS EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, INCLUDING THE PROVISIONS OF SECTION 9.04, 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 IMPOSED IN THIS ARTICLE SEVEN 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 UNDER THIS AGREEMENT 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 UNDER THIS AGREEMENT CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

NOTHING IN THIS ARTICLE SEVEN PREVENTS, OR IS INTENDED TO PREVENT BUYER FROM PROCEEDING AGAINST OR EXERCISING ITS RIGHTS WITH RESPECT TO ANY SECURED INTEREST IN COLLATERAL.

**** End of Article Seven ****

ARTICLE EIGHT. GOVERNMENTAL CHARGES

8.01 Cooperation to Minimize Tax Liabilities. Each Party shall use diligent 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.

8.02 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 Generating Facility, Monthly Contract Payments made by Buyer to Seller, or the Power Product before the Delivery Point, including ad valorem taxes and other taxes attributable to the Generating Facility, the Site or land rights or interests in the Site or the Generating Facility.

Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Power Product at and after the Delivery Point.

If Seller is required by Applicable Laws to remit or pay Governmental Charges which are Buyer's responsibility under this Agreement, Buyer shall promptly reimburse Seller for such Governmental Charges.

If Buyer is required by Applicable Law or regulation to remit or pay Governmental Charges which are Seller's responsibility under this Agreement, Buyer may deduct such amounts from payments to Seller made pursuant to Article Four.

If Buyer elects not to deduct such amounts from Seller's payments, Seller shall promptly reimburse Buyer for such amounts upon Notice from Buyer of the amount to be reimbursed.

Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under Applicable Laws.

Notwithstanding any of the foregoing, obligations with respect to CAISO Charges are governed by the provisions of Exhibit J.

8.03 Providing Information to Taxing Governmental Authorities. To the extent required by Applicable Law and subject to Section 9.10(b), each Party shall provide information concerning the Generating Facility to any requesting taxing Governmental Authority.

**** End of Article Eight ****

ARTICLE NINE. MISCELLANEOUS

9.01 Representations, Warranties and Covenants.

(a) On the Effective Date, 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) 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 Applicable Laws;

(iii) This Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms, subject to any Equitable Defenses;

(iv) There is not pending, or to its knowledge, threatened against it or, in the case of Seller, any of its Related Entities, any legal proceeding that could materially adversely affect its ability to perform under this Agreement;

(v) No Event of Default with respect to it has occurred and is continuing and no such event or circumstance will occur as a result of its entering into or performing its obligations under this Agreement;

(vi) 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;

(vii) It has not relied on any promises, representations, statements or information of any kind whatsoever that are not contained in this Agreement in deciding to enter into this Agreement; and

(viii) It has entered into this Agreement in connection with the conduct of its business and it has the capacity or ability to provide or receive the Power Product as contemplated by this Agreement.

(b) On the Effective Date:

(i) Each Party covenants to the other Party that, it has or will timely acquire all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and

(ii) If Section 1.02(a) provides that the Generating Facility is an Existing Qualifying Facility, then, Seller represents and warrants to Buyer that the Generating Facility qualifies as an Existing Qualifying Facility.

9.02 Additional Covenants by Seller. Seller covenants to Buyer that:

(a) It will have Site Control as of the earlier of (i) the Term Start Date and (ii) any period before the Term Start Date to the extent necessary for Seller to perform its obligations under this Agreement and, in each case, will maintain Site Control throughout the Term;

(b) Throughout the Term, it or its subcontractors will own or lease and Operate the Generating Facility unless otherwise agreed to by the Parties;

(c) Throughout the Term, it will deliver the Product to Buyer free and clear of all liens, security interests, Claims and encumbrances or any interest therein or thereto by any Person;

(d) Throughout the Term, it will hold the rights to all of the Product, subject to the terms of this Agreement;

(e) If Section 1.02(a) provides that the Generating Facility is a New Qualifying Facility, then, subject to Section 3.17(c), (i) the Generating Facility will be designed and constructed so as to satisfy all of the requirements applicable to a Qualifying Facility, and (ii) during the Term, the Generating Facility will maintain its status as a Qualifying Facility.

(f) If Section 1.02(a) provides that the Generating Facility is an Existing Qualifying Facility, then, subject to Section 3.17(c), from the Effective Date until the Term End Date, the Generating Facility will maintain its status as a Qualifying Facility;

(g) Throughout the Term, it will not (1) convey, transfer, allocate, designate, award, report or otherwise provide any or all of the Product, or any portion thereof, or any benefits derived therefrom, to any party other than Buyer (except, if Buyer is not Scheduling Coordinator, as may relate to transactions in the Real-Time Market arising from ordinary course deviations between Metered Amounts and electric energy Scheduled to Buyer), or (2) start-up or Operate the Generating Facility per instruction of or for the benefit of any third party (except in order to satisfy the Site Host Load, or as required by other Applicable Laws);

(h) Upon Buyer's request, Seller shall provide to Buyer documentation evidencing the Generating Facility's contribution to Buyer's compliance with the GHG EPS; and

(i) Seller shall comply with all (i) applicable cap-and-trade programs for the regulation of Greenhouse Gas, as established by any Governmental Authority pursuant to federal or state legislation, and (ii) other applicable programs regulating Greenhouse Gas emissions~~; and~~.

~~(j) Throughout the Term, Seller shall not cause any energy from the Transmission Provider's electrical system or the CAISO Controlled Grid to be stored by the Project or any hybrid or co-located storage facility associated with the Project.~~

9.03 Additional Representations, Warranties, and Covenants Applicable to Renewable Small Power Production Facilities. If the Generating Facility is a small power production facility, as set forth in Section 1.02(c), that utilizes a technology referenced in Section 399.12 of the California Renewables Portfolio Standard, then:

(a) 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.

(b) 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.

The term "commercially reasonable efforts" in Sections 9.03(a) and 9.03(b) does not require Seller to pay or incur more than $20,000 multiplied by the number of Term Years in the Term.

(c) 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.

9.04 Indemnity.

(a) Each Party as indemnitor shall defend, save harmless and indemnify the other Party and the directors, officers, employees, and agents of such other Party against and from any and all loss, liability, damage, claim, cost, charge, demand, or expense (including any direct, indirect, or consequential loss, liability, damage, claim, cost, charge, demand, or expense, including reasonable attorneys' fees) for injury or death to Persons, including employees of either Party, and physical damage to property including property of either Party arising out of or in connection with the negligence or willful misconduct of the indemnitor relating to its obligations under this Agreement.

This indemnity applies notwithstanding the active or passive negligence of the indemnitee. However, neither Party is indemnified under this Agreement for its loss, liability, damage, claim, cost, charge, demand or expense to the extent resulting from its negligence or willful misconduct.

(b) Each Party releases and shall defend, save harmless and indemnify the other Party from any and all loss, liability, damage, claim, cost, charge, demand or expense arising out of or in connection with any breach made by the indemnifying Party of its representations, warranties and covenants in Section 9.01, Section 9.02 and Section 9.03.

(c) The provisions of this Section 9.04 may not be construed to relieve any insurer of its obligations to pay any insurance Claims in accordance with the provisions of any valid insurance policy.

(d) Notwithstanding anything to the contrary in this Agreement, if Seller fails to comply with the provisions of Section 9.11, Seller shall, at its own cost, defend, save harmless and indemnify Buyer, its directors, officers, employees, and agents, assigns, and successors in interest, from and against any and all loss, liability, damage, claim, cost, charge, demand, or expense of any kind or nature (including any direct, indirect, or consequential loss, damage, claim, cost, charge, demand, or expense, including reasonable attorneys' fees and other costs of litigation), resulting from injury or death to any person or damage to any property, including the personnel or property of Buyer, to the extent that Buyer would have been protected had Seller complied with all of the provisions of Section 9.11.

The inclusion of this Section 9.04(d) is not intended to create any express or implied right in Seller to elect not to provide the insurance required under Section 9.11.

(e) Each Party shall defend, save harmless and indemnify the other Party against any Governmental Charges for which such indemnifying Party is responsible under Article Eight.

(f) Seller shall defend, save harmless and indemnify Buyer against any costs associated with the implementation and regulation of Greenhouse Gas emissions with respect to Seller or the Generating Facility.

(g) Seller shall defend, save harmless and indemnify Buyer against any penalty imposed upon Buyer as a result of Seller's failure to fulfill its obligations regarding Resource Adequacy Benefits as set forth in Sections 3.01 and 3.02, with the exception of the obligations set forth in Section 3.01(c)(vi).

(h) Seller is solely responsible for any NERC Standards Non-Compliance Penalties arising from or relating to Seller's failure to perform the Generator Operator Obligations or the Generator Owner Obligations for which Seller is responsible, in accordance with Section 3.21, and will indemnify, defend and hold Buyer harmless from and against all liabilities, damages, Claims, losses, and reasonable costs and expenses (which shall include reasonable costs and expenses of outside or in-house counsel) incurred by Buyer arising from or relating to Seller's actions or inactions that result in NERC Standards Non-Compliance Penalties or an attempt by any Governmental Authority, Person to assess such NERC Standards Non-Compliance Penalties against Buyer. Buyer will indemnify, defend and hold Seller harmless from and against all liabilities, damages, Claims, losses and reasonable costs and expenses (which shall include reasonable costs of outside and in-house counsel) incurred by Seller for any NERC Standards Non-Compliance Penalties to the extent they are due to Buyer's negligence or willful misconduct in performing its role as Seller's Scheduling Coordinator during the Term.

~~(i) Seller shall defend, save harmless, and indemnify Buyer against any costs or charges, including any CAISO Charges, associated with withdrawals of energy from the Transmission Provider's electrical system or the CAISO Controlled Grid to be stored by the Project or any hybrid or co-located storage facility associated with the Project.~~

~~(j)~~(i) All indemnity rights will survive the termination of this Agreement for 12 months.

9.05 Assignment.

(a) With Consent. Subject to Section 9.05(b), Seller may not transfer or assign this Agreement or its rights under this Agreement without the prior written consent of Buyer, which consent may not be unreasonably withheld or delayed. Any 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 Buyer, which consent will not be unreasonably withheld. For purposes of this Section 9.05, Buyer will not withhold its consent to an indirect change of control of Seller if Seller demonstrates to Buyer's reasonable satisfaction that Seller shall continue to perform its obligations under this Agreement as if no such indirect change of control had occurred.

(b) Without Consent. Notwithstanding anything to the contrary set forth in Section 9.05(a):

(i) Seller may, without the consent of Buyer (and without relieving itself from liability hereunder): (1) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements in accordance with Section 9.06; or (2) transfer or assign this Agreement to an Related Entity of Seller, which Related Entity's creditworthiness is equal to or higher than that of Seller; and

(ii) Seller does not need to obtain Buyer's consent to any change of control described in this Section 9.05 if such change of control results from a purchase of the outstanding shares of a publicly traded company.

9.06 Consent to Collateral Assignment. Subject to the provisions of this Section 9.06, Seller may (but is not obligated to) assign this Agreement as collateral to a Lender for any financing or refinancing of the Generating Facility, including a Sale-Leaseback Transaction or Equity Investment and, in connection therewith, Buyer shall in good faith work with Seller and Lender to agree upon a consent to a collateral assignment of this Agreement or to a Sale-Leaseback Transaction or Equity Investment, as applicable ("Collateral Assignment Agreement").

The Collateral Assignment Agreement shall be in form and substance reasonably agreed to by Buyer, Seller and Lender, and shall include, among others, the following provisions (together with such other commercially reasonable provisions required by any Lender that are reasonably acceptable to Buyer):

(a) Buyer shall give, to the Person(s) to be specified by Lender in the Collateral Assignment Agreement, simultaneously with the Notice to Seller and before exercising its right to terminate this Agreement, written Notice of any event or circumstance known to Buyer which would, if not cured within the applicable cure period specified in Article VI, constitute an Event of Default (an "Incipient Event of Default");

(b) Lender shall have the right to cure an Incipient Event of Default or an Event of Default by Seller in accordance with the same provisions of this Agreement as apply to Seller;

(c) Following an Event of Default by Seller under this Agreement, Buyer may require Seller to (although Lender may, but shall have no obligation, subject to 9.06(g)) provide to Buyer 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 Buyer may reasonably require related to the development, implementation and timetable of the cure plan;

(d) Seller or Lender shall provide the report to Buyer within 10 Business Days after Notice from Buyer requesting the report. Buyer shall have no further right to require the report with respect to a particular Event of Default after that Event of Default has been cured;

(e) Lender shall have the right to cure an Event of Default or Incipient Event of Default on behalf of Seller, only if Lender sends a written notice to Buyer before the end of any cure period indicating Lender's intention to cure. Lender may remedy or cure the Event of Default or Incipient Event of Default within the cure period under this Agreement. Such cure period for Lender shall be extended for each day Buyer does not provide the Notice to Lender referred to in Section 9.06(a). In addition, such cure period may, in Buyer's reasonable discretion, be extended by no more than an additional 180 days. If possession of the Generating Facility is necessary to cure such Incipient Event of Default or Event of Default, Lender has commenced foreclosure proceedings within 60 days after receipt of such Notice from Buyer, and Lender is making diligent and consistent efforts to complete such foreclosure, take possession of the Generating Facility and promptly cure the Incipient Event of Default or Event of Default, Lender or its designee(s) or assignee(s) will be allowed a reasonable period of time to complete such foreclosure proceedings, take possession of the Generating Facility and cure such Incipient Event of Default or Event of Default, not to exceed 180 days after Lender's commencement of foreclosure. Additionally, if Lender is prohibited from curing any Incipient Event of Default or Event of Default by any process, stay or injunction issued by a Governmental Authority or pursuant to any bankruptcy, insolvency or similar proceedings, then the time period for curing such Incipient Event of Default or Event of Default shall be extended for the period of the prohibition provided that Lender is exercising reasonable diligence in having such process, stay or injunction removed;

(f) Lender shall have the right to consent before any termination of this Agreement which does not arise out of an Event of Default or the end of the Term;

(g) Lender shall receive prior Notice of, and shall have the right to approve material amendments to this Agreement, which approval may not be unreasonably withheld, delayed or conditioned;

(h) In the event Lender, directly or indirectly, takes title to the Generating Facility (including title by foreclosure or deed in lieu of foreclosure), the Person taking title to the Generating Facility shall 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, Buyer and Lender as set forth in the Collateral Assignment Agreement); *provided, however,* that Lender (or such Person) shall have no liability for any monetary obligations of Seller under this Agreement which are due and owing to Buyer as of the assumption date (but this provision may not be interpreted to limit Buyer's rights to proceed against Seller as a result of an Event of Default) and Lender's (or such Person's) liability to Buyer after such assumption shall be limited to its interest in the Generating Facility; *provided further*, that before such assumption, if Buyer advises Lender (or such Person) that Buyer will require that Lender (or such Person) cure (or cause to be cured) one or more monetary or non-monetary Incipient Event(s) of Default or Event(s) of Default existing as of the date such Person takes title in order to avoid the exercise by Buyer (in its sole discretion) of Buyer's right to terminate this Agreement with respect to such Incipient Event(s) of Default or Event(s) of Default, then Lender (or such Person) at its option and in its sole discretion may elect to either (i) cause such Incipient Event(s) of Default or Event of Default to be cured, or (ii) not assume this Agreement;

(i) If Lender has assumed this Agreement as provided in Section 9.06(h) and elects to sell or transfer the Generating Facility (after Lender directly or indirectly, takes title to the Generating Facility), or sale of the Generating Facility occurs through the actions of Lender or an agent of or representative of Lender (excluding any foreclosure sale where a third party other than Lender, Seller, an Related Entity of Lender or an Related Entity of Seller is the buyer), 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 excluding, however, a foreclosure (unless the transferee or buyer is Lender, Seller, an Related Entity of Lender or an Related Entity of Seller). Lender shall be released from all further obligations under the Agreement and all related documents following such assumption. Such sale or transfer (excluding a foreclosure) may be made only to a Person reasonably acceptable to Buyer; and

(j) If this Agreement is rejected in Seller's Bankruptcy or otherwise terminated in connection therewith and if Lender or its representative or designee, directly or indirectly, takes title to the Generating Facility, then, at the request of either

Buyer or Lender, Buyer and Lender (or its designee or representative) shall promptly enter into a new agreement with Buyer having substantially the same terms as this Agreement for the term that would have been remaining under this Agreement, provided that Lender's (or its designee's or representative's) liability under such new agreement shall be limited to its interest in the Generating Facility and neither Lender (or its designee or representative) nor Buyer shall have any personal liability to the other for any amounts owing and neither Buyer nor Lender (or its designee or representative) shall have any obligation to cure any defaults under the original Agreement that was rejected in, or otherwise terminated in connection with Seller's Bankruptcy.

9.07 Governing Law and Jury Trial Waiver. THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER ARE 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.

9.08 Notices. All Notices shall be provided as specified in Exhibit N. Notices (other than Forecasts and Scheduling requests) shall, unless otherwise specified in this Agreement, be in writing and may be delivered by hand delivery, first class United States mail, overnight courier service, or electronic transmission. Notices provided in accordance with this Section 9.08 are deemed given as follows:

(a) Notice by electronic transmission or hand delivery is deemed given at the close of business on the day actually received, if received during business hours on a Business Day, and otherwise are deemed given at the close of business on the next Business Day;

(b) Notice by overnight first-class United States mail or overnight courier service is deemed given on the next Business Day after such Notice is sent out;

(c) Notice by first class United States mail is deemed given two Business Days after the postmarked date;

(d) Notices are 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;

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

(f) All Notices for this Generating Facility must reference the identification number set forth on the cover page of this Agreement.

9.09 General.

(a) Notwithstanding anything to the contrary set forth in this Agreement, with respect to any terms, conditions or other provisions, which are not specifically related to Power Product pricing and not expressly addressed in this Agreement, the applicable provisions of that certain Settlement Agreement shall control.

(b) This Agreement supersedes all prior agreements, whether written or oral, between the Parties with respect to its subject matter and constitutes the entire agreement between the Parties relating to its subject matter.

(c) This Agreement will not be construed against any Party as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

(d) Except to the extent provided for in this Agreement, no amendment or modification to this Agreement is enforceable unless reduced to a writing signed by all Parties.

(e) If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

(f) Waiver by a Party of any default by the other Party will not be construed as a waiver of any other default.

(g) The term "including" when used in this Agreement is by way of example only and will not be considered in any way to be in limitation.

(h) The word "or" when used in this Agreement includes the meaning "and/or" unless the context unambiguously dictates otherwise.

(i) The headings used in this Agreement are for convenience and reference purposes only and will not affect its construction or interpretation. All references to "Articles", "Sections" and "Exhibits" refer to the corresponding Articles, Sections and Exhibits of this Agreement. Unless otherwise specified, all references to "Articles" or "Sections" in Exhibits A through T-2 refer to the corresponding Articles and Sections in the main body of this Agreement. Words having well-known technical or industry meanings have such meanings unless otherwise specifically defined in this Agreement.

(j) Where days are not specifically designated as Business Days, they are calendar days. Where years are not specifically designated as Term Years, they are calendar years.

(k) This Agreement will apply to, be binding in all respects upon and inure to the benefit of the successors and permitted assigns of the Parties. Nothing in this Agreement will be construed to give any Person other than the Parties any legal or equitable right, remedy or claim under or with respect to this Agreement or any provision of this Agreement, except as shall inure to a successor or permitted assignee.

(l) No provision of this Agreement is intended to contradict or supersede any applicable agreement between the Parties or between or among Seller, the CAISO and the Transmission Provider, covering transmission, distribution, metering, scheduling or interconnection of electric energy (including the PGA and QF PGA). In the event of an apparent contradiction between this Agreement and any such agreement, the applicable agreement controls.

(m) Whenever this Agreement specifically refers to any law, tariff, government department or agency, regional reliability council, Transmission Provider, or credit rating agency, the Parties agree that the reference also refers to any successor to such law, tariff or organization.

(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 United States Bankruptcy Code and that Buyer and Seller are each "forward contract merchants" within the meaning of the United States 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 an Adobe Acrobat file 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. Signatures of the Parties transmitted by electronic means will be deemed to be their original signatures for all purposes.

9.10 Confidentiality.

(a) Neither Party may disclose any Confidential Information to a third party, other than:

(i) To such Party's employees, Lenders, investors, attorneys, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential;

(ii) To potential Lenders with the consent of Buyer, which consent will not be unreasonably withheld; *provided, however,* that disclosure (1) of cash flow and other financial projections to any potential Lender or investor in connection with a potential loan or tax equity investment; or (2) to potential Lenders or investors with whom Seller has negotiated (but not necessarily executed) a term sheet or other similar written mutual understanding, will not require such consent of Buyer; *provided further*, that in each case such potential Lender or investor has a need to know such information and has agreed to keep such terms confidential;

(iii) To Buyer's Procurement Review Group and Cost Allocation Mechanism Group, as defined in D.02-08-071 and D.06-07-029, respectively, subject to a protective order applicable to Buyer's Procurement Review Group;

(iv) With respect to Confidential Information other than nonpublic financial information of Seller supplied to Buyer pursuant to Section 3.20, to the CPUC, the CEC or the FERC, under seal for any regulatory purpose, including policymaking, but only provided that the confidentiality protections from the CPUC under Section 583 of the California Public Utilities Code or other statute, order or rule offering comparable confidentiality protection are in place before the communication of such Confidential Information;

(v) 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 9.10(a)(vi);

(vi) In order to comply with any Applicable Law, including applicable regulation, rule, subpoena, or order of the CPUC, CEC, FERC, any court, administrative agency, legislative body or other tribunal, or any discovery or data request of the CPUC;

(vii) To representatives of a Party's credit ratings agencies 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 or with respect to the potential impact of this Agreement on the Party's financial reporting obligations, in each case subject to confidentiality restrictions no less stringent than as set forth in this Agreement; and

(viii) As may reasonably be required to participate in WREGIS or other process recognized under Applicable Laws for the registration, transfer or ownership of Green Attributes associated with the Related Products.

(b) In connection with requirements, requests or orders to produce documents or information in the circumstances provided in Sections 8.03 and 9.10(a)(vi) ("Disclosure Order") each Party shall, to the extent practicable, use reasonable efforts to (i) notify the other Party before disclosing the confidential information, and (ii) prevent or limit such disclosure. After using such reasonable efforts, the disclosing party may not be (x) prohibited from complying with a Disclosure Order, or (y) liable to the other Party for monetary or other damages incurred in connection with the disclosure of any terms or conditions of this Agreement which are the subject of such Disclosure Order.

(c) Except as provided in clause (y) of Section 9.10(b), the Parties are entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, the confidentiality obligations set forth in this Section 9.10.

9.11 Insurance.

(a) As of the Effective Date and throughout the Term (and for such additional periods as may be specified in this Section 9.11), Seller shall, at its own expense, provide and maintain in effect the insurance policies and minimum limits of coverage specified in this Section 9.11, 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 in this Section 9.11 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; and

3) Bodily injury by disease – One Million dollars ($1,000,000) each employee; and

(iii) Commercial General Liability Insurance, (which, except with the prior written consent of Buyer and subject to Sections 9.11(a)(ii)(1) and (2), 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, broad form property damage, personal and advertising injury, products/completed operations, and contractual liability. Such insurance shall bear a combined single limit per occurrence and annual aggregate of not less than one million dollars ($1,000,000), exclusive of defense costs, for all coverages. Such insurance shall contain standard cross-liability and severability of interest provisions.

If Seller elects, with Buyer'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 years after the Agreement terminates, or the policy must provide for a supplemental extended reporting period of not less than four 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 $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 automobiles in the performance of the Agreement.

(v) 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, and Commercial Automobile Liability insurance, on terms at least as broad as the underlying coverage, with limits of not less than $10,000,000 per occurrence and in the annual aggregate. The insurance requirements of this Section 9.11 can be provided by any combination of Seller's primary and excess liability policies.

(b) The insurance required in Section 9.11(a) apply as primary insurance to, without a right of contribution from, any other insurance maintained by or afforded to Buyer, 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 Applicable Law, Seller and its insurers are required to waive all rights of recovery from or

subrogation against Buyer, its subsidiaries and affiliates, and their respective officers, directors, shareholders, agents, employees and insurers. The Commercial General Liability and Umbrella/Excess Liability insurance required above shall name Buyer, its subsidiaries and affiliates, and their respective officers, directors, shareholders, agents and employees, as additional insureds for liability arising out of Seller's construction, ownership or Operation of the Generating Facility.

(c) At the time this Agreement is executed, or within a reasonable time thereafter, and within a reasonable time after coverage is renewed or replaced, Seller shall furnish to Buyer certificates of insurance evidencing the coverage required in this Section 9.11, written on forms and with deductibles reasonably acceptable to Buyer. All deductibles, co-insurance and self-insured retentions applicable to the insurance above shall be paid by Seller. All certificates of insurance shall note that the insurers issuing coverage shall endeavor to provide Buyer with at least 30 days' prior written notice in the event of cancellation of coverage. Buyer's receipt of certificates that do not comply with the requirements stated herein, or Seller's failure to provide certificates, does not limit or relieve Seller of the duties and responsibility of maintaining insurance in compliance with the requirements in this Section 9.11 and does not constitute a waiver of any of the requirements in this Section 9.11.

(d) If Seller fails to comply with any of the provisions of this Section 9.11, Seller, among other things and without restricting Buyer's remedies under the Applicable 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 and Commercial Automobile Liability insurance, Seller shall provide a current, full and complete defense to Buyer, 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.

(e) Seller has the right to self-insure to comply with Seller's obligations under this Section 9.11. The insurance carrier or carriers and form of policy (including any deductible amount), or any plan for self-insurance shall be subject to review and approval by Buyer, which approval may not be unreasonably withheld, conditioned or delayed.

9.12 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 such service shall cease upon termination of this Agreement.

9.13 Mobile Sierra. Notwithstanding any provision of this Agreement, neither Party will seek, nor will they support any third party in seeking, to prospectively or retroactively revise the rates, terms, or conditions of service of this Agreement through application or complaint to FERC pursuant to the provisions of Section 205, 206, or 306 of the Federal Power Act, or any other provisions of the Federal Power Act, absent prior written agreement of the Parties.

Further, absent the prior agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of service of this Agreement proposed by a Party, a non-Party or the 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 US 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 US 348 (1956).

9.14 Seller Ownership and Control of Generating Facility. Seller agrees, that, in accordance with FERC Order No. 697, upon request of Buyer, Seller shall submit a letter of concurrence in support of an affirmative statement by Buyer that the contractual arrangement set forth in this Agreement does not transfer "ownership or control of generation capacity" from Seller to Buyer 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 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 Buyer.

9.15 Simple Interest Payments. 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 shall be eligible to receive a Simple Interest Payment calculated using the Interest Rate for the number of days between the date due and the date paid.

9.16 Payments. Payments to be made under this Agreement shall be made, at Seller's option, by check or electronic wire funds transfer.

9.17 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 hereof, that money damages would not be a sufficient remedy for any breach of such provisions of this Agreement, and that the Parties shall be entitled, without the requirement of posting a bond or the other security, to seek a preliminary injunction, temporary restraining order, or other provisional relief as a remedy for a breach of Sections 3.01, 3.02, 3.03, or 9.10 (and, if applicable, Section 4(e) of Exhibit F) 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 10.01. The Parties further acknowledge and agree that the results of such arbitration may be rendered ineffectual without such 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 10.01,

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 such breach of the provision, or if this Agreement does not specify a remedy for such breach, all other remedies available at law or equity to the Parties for such breach.

**** End of Article Nine ****

ARTICLE TEN. DISPUTE RESOLUTION

10.01 Dispute Resolution. Other than requests for provisional relief under Section 9.17, 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 ("Disputes"), which Disputes the Parties have been unable to resolve by informal methods, will first be submitted to mediation in accordance with the procedures described in Section 10.02, and if the Dispute is not resolved through mediation, then for final and binding arbitration in accordance with the procedures described in Section 10.03.

10.02 Mediation. Either Party may initiate mediation by providing Notice to the other Party 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 JAMS 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 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 120 days from the date of Notice of the request for mediation.

The Parties covenant that they will participate in the mediation, 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, however,* that evidence that is otherwise admissible or discoverable will not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

10.03 Arbitration. Either Party may initiate binding arbitration with respect to the matters first submitted to mediation in accordance with Section 10.02 by providing Notice of a demand for binding arbitration before a single, neutral arbitrator (the "Arbitrator") at any time following the unsuccessful conclusion of the mediation provided for in Section 10.02.

The Parties will cooperate with one another in selecting the Arbitrator within 60 days after Notice of the demand for arbitration and will further cooperate in scheduling the

arbitration to commence no later than 180 days from the date of Notice of the demand. If 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 in this Section 10.03, 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, California, and 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 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 25 document requests (with no subparts), three lay witness depositions, and three 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 expert witnesses, excluding rebuttal experts;

(g) Within 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 30 days after the initial expert disclosure, the Parties may designate a maximum of two 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 in the event certain provisions of this Agreement are not performed in accordance with the terms hereof, that money damages would not be a sufficient remedy for any breach of such 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 Sections 3.01, 3.02, 3.03 or 9.10 (and, if applicable, Section 4(e) of Exhibit F).

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.

**** End of Article Ten ****

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their respective authorized representatives as of the Effective Date.

[SELLER'S NAME],
a **[Seller's form of business and state of registration]**

By:_____

Name:_____

Title:_____

Date:_____

SOUTHERN CALIFORNIA EDISON COMPANY,
a California corporation

By:_____

Name:_____

Title:_____

Date:_____

EXHIBIT A
Definitions

For purposes of this Agreement, the following terms and variations thereof have the meanings specified or referred to in this Exhibit A:

"2010 Decision" has the meaning set forth in Recital D.

"Agreement" has the meaning set forth in the Preamble.

"Ambient Outage" means reductions in capacity due to that status of, or variations in, Site Host Load or ambient weather conditions.

"Applicable Laws" means all constitutions, treaties, laws, ordinances, rules, regulations, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority or arbitrator 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 Section 10.03.

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

"Availability Standards" has the meaning set forth in the CAISO Tariff.

"Available Capacity" is the available total generation capacity of the Generating Facility (in MW), accounting for Outages submitted in accordance with Exhibit R.

"Bankrupt" means with respect to any Person, such Person:

(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 (which petition is not dismissed within 90 days);

(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 it or any substantial portion of its property or assets; or

(e) Is generally unable to pay its debts as they fall due.

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

"Buyer" has the meaning set forth in the Preamble.

"CAISO" means the California Independent System Operator Corporation or successor entity that dispatches certain generating units, supplies certain loads and controls the transmission facilities of entities that (a) own, operate and maintain transmission lines and associated facilities or have entitlements to use certain transmission lines and associated facilities, and (b) have transferred to the CAISO or its successor entity operational control of such facilities or entitlements.

"CAISO-Approved Meter" means any revenue quality, electric energy measurement meter furnished by Seller, that (a) is designed, manufactured and installed in accordance with the CAISO's metering requirements, or, to the extent that the CAISO's metering requirements do not apply, Prudent Electrical Practices, and (b) includes all of the associated metering transformers and related appurtenances that are required in order to measure the net electric energy output from the Generating Facility.

"CAISO-Approved Quantity" means the total quantity of electric energy that Buyer Schedules with the CAISO and the CAISO approves in its final schedule which is published in accordance with the CAISO Tariff.

"CAISO Charges" means the debits, costs, fees, penalties, sanctions, interest or similar charges, including imbalance energy charges, that are directly assigned by the CAISO to the CAISO Global Resource ID for the Generating Facility for, or attributable to, Scheduling or deliveries from the Generating Facility under this Agreement.

"CAISO Controlled Grid" has the meaning set forth in the CAISO Tariff.

"CAISO Global Resource ID" means the number or name assigned by the CAISO to the CAISO-Approved Meter.

"CAISO Revenues" means the credits, fees, payments, revenues, interest or similar benefits, including imbalance energy payments, that are directly assigned by the CAISO to the CAISO Global Resource ID for the Generating Facility for, or attributable to, Scheduling or deliveries from the Generating Facility under this Agreement.

"CAISO Tariff" means the California Independent System Operator Corporation Operating Agreement and Tariff, including the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time to time and approved by the FERC.

"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, tag, credits, ancillary service attributes, or accounting constructs, howsoever entitled, other than

Resource Adequacy Benefits, attributed to or associated with the electricity generating capability of the Generating Facility.

"Capacity Performance Requirement", or "CR", means the values set forth in Section 1.04.

"Capacity Price" has the meaning set forth in Section 3 of Exhibit D.

"CARB" means California Air Resources Board, or any successor entity.

"CEC" means the California Energy Commission, or any successor entity.

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

"Check Meter" means the Buyer revenue-quality meter section or meter(s), which Buyer may require at its discretion, as set forth in Section 3.08(b) and will include those devices normally supplied by Buyer or Seller under the applicable utility Electric Service Requirements.

"Claiming Party" has the meaning set forth in Section 5.02.

"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 before or after the termination of this Agreement.

"Collateral Assignment Agreement" has the meaning set forth in Section 9.06.

"Confidential Information" means all oral or written communications exchanged between the Parties on or after the Effective Date relating to the implementation of this Agreement, including information related to Seller's compliance with operating and efficiency standards applicable to a "qualifying cogeneration facility" (as contemplated in 18 CFR Part 292, Section 292.205) or fuel use standards applicable to a "qualifying small power production facility" (as contemplated in 18 CFR Part 292, Section 292.204). Confidential Information does not include (i) information which is in the public domain as of the Effective Date or which comes into the public domain after the Effective Date from a source other than from the other Party, (ii) information which either Party can demonstrate in writing was already known to such Party on a non-confidential basis before the Effective Date, (iii) information which comes to a Party from a bona fide third-party source not under an obligation of confidentiality, or (iv) information which is independently developed by a Party without use of or reference to Confidential Information or information containing Confidential Information.

"Contract Capacity" has the meaning set forth in Section 1.02(d).

"Contract Capacity Confirmation Certificate" has the meaning set forth in Section 3.13(a).

"Contract Price Advice Letter" means an advice letter filed by Buyer with the CPUC pursuant to Ordering Paragraphs 6, 7 or 8 of D.20-05-006.

"Contract TOD Energy Price" has the meaning set forth in Section 2(b) of Exhibit D.

{Drafting Note: Delete this definition of Contract TOD Energy Price if Exhibit D (As-Executed Option) is chosen.}

"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.

"Converted Physical Trade", or "CPT", means the quantity from Physical Trades, in MWh, that did not pass CAISO's physical validation of the IFM.

"Converted Physical Trade Price" means the price, in dollars per MWh, used by the CAISO to settle the quantity, in MWh, associated with the Converted Physical Trade.

"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 such Party in entering into any new arrangement which replaces this Agreement.

"CPUC" means the California Public Utilities Commission, or any successor entity.

"Credit Rating" means with respect to any Person, on the relevant date of determination, the respective ratings then assigned to such Person's unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancement) by S&P or Moody's. If no rating is assigned to such Person's unsecured, senior long-term debt or deposit obligation by either S&P or Moody's, then "Credit Rating" shall mean the general corporate credit rating or long-term issuer rating assigned to such Person by S&P or Moody's, as the case may be.

"Curtailment Period" means a time period for which Seller is requested by the CAISO or a Transmission Provider to curtail its Power Product for Force Majeure or otherwise.

"D." has the meaning set forth in Recital A.

"Daily Delay Liquidated Damages" has the meaning set forth in Section 4(c)(ii) of Exhibit F.

"Day-Ahead" has the meaning set forth in the CAISO Tariff.

"Day-Ahead Forecast" has the meaning set forth in Section 2(c)(i) of Exhibit I.

"Day-Ahead Market" has the meaning set forth in the CAISO Tariff.

"Day-Ahead Price" means the Locational Marginal Price specific to the PNode applicable to the Project for a given hour in the Day-Ahead Market.

"Day-Ahead Schedule" has the meaning set forth in the CAISO Tariff.

"Day-Ahead Scheduling Deadline" means five hours before the deadline established by the CAISO for submission of schedules for the applicable day.

"Decision" has the meaning set forth in Recital A.

"Deemed Delivered Energy" means the amount of energy that Seller could reasonably have delivered to Buyer, but was instructed not to deliver to Buyer by reason of Economic Dispatch Down. The quantity of Deemed Delivered Energy shall be equal to: (a) the result of (i) the lesser of (y) the Deemed Delivery Forecast in the applicable Economic Dispatch Down period and (z) the Project's Maximum Potential Energy in the applicable Economic Dispatch Down period; *less* (ii) the greater of (y) the total Expected Energy in the applicable Economic Dispatch Down period and (z) the actual energy delivered during such period; and *less* (iii) any amount of energy that was not delivered due to any concurrent Planned Outage, Forced Outage, Force Majeure, Power Product Curtailment, and/or CAISO action or inaction (but only to the extent the Deemed Delivery Forecast does not already reflect any of the foregoing); provided that, if the applicable amount calculated pursuant to this clause (a) is negative, the Deemed Delivered Energy shall be zero (0); or (b) if there is no such Deemed Delivery Forecast available during the applicable Economic Dispatch Down period, the amount of energy that Seller could reasonably have delivered to Buyer, but was instructed not to deliver to Buyer as a result of Economic Dispatch Down, as determined by Buyer based on Seller's Final Energy Forecast and the amount of energy delivered, which amount shall not include any amount of energy that was not delivered due to any concurrent Planned Outage, Forced Outage, Force Majeure, Power Product Curtailment, and/or CAISO action or inaction. In each case, the calculation of Deemed Delivered Energy shall be calculated according to the formula set forth in Exhibit U.

"Deemed Delivery Forecast" for (i) a PIRP certified facility means the final forecast of the energy to be produced by the Project as prepared by the CAISO or its agent in accordance with the PIRP Forecasting Program and communicated to the Scheduling Coordinator, which forecast is the last such forecast prepared by the CAISO that does not reflect curtailed production as a result of Economic Dispatch Down periods (as of the Effective Date, such Deemed Delivery Forecast is the final real-time CAISO forecast generated by the CAISO and communicated to Scheduling Coordinator for use in submitting a Schedule for the output of the Project in the Real-Time Market) or (ii) for a non-PIRP certified facility means the Seller's Day-Ahead Forecast, updated for Outages, which is the expected hourly forecast of the total electric energy production of the Generating Facility (in MWh) as measured by the CAISO-Approved Meter. For a PIRP certified facility, if no such PIRP forecast is available, then the Deemed Delivery Forecast will be determined based upon: (1) the Available Capacity, (2) meteorological data for the Generating Facility during the applicable Settlement Interval(s), or (3) at Buyer's discretion, Seller's Day-Ahead Forecast.

"Defaulting Party" has the meaning set forth in Section 6.01(a).

"Delivery Point" has the meaning set forth in Section 1.03.

"Delivery Term" means the Term.

"Development Security" has the meaning set forth in Section 4(b)(i) of Exhibit F.

"Disclosure Order" has the meaning set forth in Section 9.10(b).

"Dispute" has the meaning set forth in Section 10.01.

"Early Termination Date" has the meaning set forth in Section 6.02(a).

"Economic Dispatch Down" means curtailment of delivery of Product from the Project that is the result of economic curtailment where Buyer, as the Scheduling Coordinator, either (i) submits a Self-Schedule with a binding Product quantity (that is less than the Forecast) or an economic bid in the applicable CAISO market, or (ii) fails to submit any such schedule, in either case, that, when implemented by the CAISO, results in an otherwise available Product quantity not being scheduled or awarded in such CAISO market, and such curtailment is not concurrently the result of a Planned Outage, Forced Outage, Force Majeure, Power Product Curtailment, change in Available Capacity, and/or CAISO action or inaction.

"Effective Date" has the meaning set forth in the Preamble.

"Emergency Condition" has the meaning set forth in the Transmission Provider's LGIA or SGIA with Seller, or the distribution-level FERC-jurisdictional interconnection agreement with Seller, as applicable; *provided, however*, that if Seller interconnects pursuant to Tariff Rule 21, "Emergency Condition" means "Emergency", as defined in such Tariff Rule 21.

"Energy Payment" has the meaning set forth in Section 2 of Exhibit D.

"Equitable Defense" means any Bankruptcy or 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.

"Equity Investment" means an acquisition by a Lender of an ownership interest in the form of stock, membership or partnership interest of Seller or the immediate parent of Seller under which Seller retains the right to act in all matters relating to the control and Operation of the Site and the Generating Facility for the Term, subject to Lender's rights to enforce its ownership interest in Seller or the immediate parent of Seller, as applicable, in the event of a default by Seller or the immediate parent of Seller under Lender's equity acquisition agreement or the partnership agreement, operating agreement, or other agreement governing the relationship between the equity owners of the Generating Facility.

"ERR" has the meaning set forth in Section 9.03(a)(i).

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

"Existing Qualifying Facility" means a Generating Facility that commenced Parallel Operation before the Effective Date, and that, as of the Effective Date, is a Qualifying Facility.

"Expected Energy" has the meaning set forth in the CAISO Tariff.

"Expected Term Year Energy Production" means the Metered Amounts expected to be produced by the Generating Facility during each Term Year, as set forth in Section 1.02(e).

"Extra Energy" means Metered Amounts in any Settlement Interval that exceed Contract Capacity *divided by* the number of Settlement Intervals per hour.

"Federal Funds Effective Rate" means the rate for that day opposite the caption "Federal Funds (effective)" as set forth in the weekly statistical release as H.15(519), or any successor publication, published by the Board of Governors of the Federal Reserve System.

"FERC" means the Federal Energy Regulatory Commission, or any successor entity.

"Financial Consolidation Requirement" has the meaning set forth in Section 3.20(a).

"Financial Incentives" means any and all financial incentives, benefits or credits associated with the Generating Facility, or the ownership or Operation thereof, or the electrical or thermal output of the Generating Facility, including any production or investment tax credits, real or personal property tax credits or sales or use tax credits, but not including any Green Attributes, Capacity Attributes or Resource Adequacy Benefits.

"Firm Operation Date" means the date that is six months after the Term Start Date.

"Force Majeure" means any event or circumstance to the extent beyond the control of, and not the result of the negligence of, or caused by, the Party seeking to have its performance obligation excused thereby, which by the exercise of due diligence such Party could not reasonably have been expected to avoid and which by exercise of due diligence it has been unable to overcome. Force Majeure does not include:

(a) A failure of performance of any other Person, including any Person providing electric transmission service or fuel transportation to the Generating Facility, except to the extent that such failure was caused by an event that would otherwise qualify as a Force Majeure event;

(b) Failure to timely apply for or obtain Permits or other credits required to Operate the Generating Facility;

(c) Breakage or malfunction of equipment (except to the extent that such failure was caused by an event that would otherwise qualify as a Force Majeure); or

(d) A lack of fuel of an inherently intermittent nature such as wind, water, solar radiation or waste gas or waste derived fuel.

"Forced Outage" has the meaning set forth in the CAISO Tariff.

"Forecast" means the hourly forecast of (a) the total electric energy production of the Generating Facility (in MWh) as measured by the CAISO-Approved Meter when the Generating Facility is not PIRP certified or Buyer is not Scheduling Coordinator net of the Site Host Load and Station Use, or (b) the available total generation capacity of the Generating Facility (in MW) when the Generating Facility is PIRP certified and Buyer is Scheduling Coordinator net of the Site Host Load and Station Use.

"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 Gains exceed its Costs and Losses, then the Forward Settlement Amount shall be zero dollars. 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. The Forward Settlement Amount does not include consequential, incidental, punitive, exemplary or indirect or business interruption damages.

"GAAP" means generally accepted accounting principles for financial reporting in the United States, 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), as of the Early Termination Date resulting from the termination of this Agreement, expressed in dollars and determined in a commercially reasonable manner. Factors used in determining the gain of economic benefit to a Party may include:

(a) Reference to information supplied by one or more third parties, which shall exclude Related Entities 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;

(b) [Intentionally omitted];

(c) Comparable transactions;

(d) Forward price curves based on economic analysis of the relevant markets; and

(e) Settlement prices for comparable transaction at liquid trading hubs (e.g., NYMEX);

All of which should be calculated for the remaining Term and shall include the value of Related Products.

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, then the Non-Defaulting Party may use information available to it internally.

"Generating Facility" means the Generating Unit(s) comprising Seller's power plant, as more particularly described in Section 1.02 and Exhibit B, including all other materials, equipment, systems, structures, features and improvements necessary to produce electric energy and thermal energy, excluding the Site, land rights and interests in land.

"Generating Unit" means one or more generating equipment combinations typically consisting of prime mover(s), electric generator(s), electric transformer(s), steam generator(s) and air emission control devices.

"Generation Operations Center" means the location of Buyer's real-time operations personnel.

"Generator Operator" means the Person that Operates the Generating Facility and performs the functions of supplying electric energy and interconnected operations services within the meaning of 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 the Person that owns the Generating Facility and has registered with the NERC as the Person responsible for complying with all NERC Reliability Standards applicable to the owner of the Generating Facility.

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

"GHG EPS" means the Greenhouse Gas Emissions Performance Standard set forth in D.07-01-039 and in subsequent CPUC rulings implementing D.07-01-039, and any subsequent CPUC-established precondition to the execution of this Agreement (including any precondition set forth in the Settlement Agreement), in each case as in effect as of the Effective Date.

"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 8.02.

"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 (CO_2), methane (CH_4), 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

[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.

usage, it shall provide Buyer with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Project.

"Greenhouse Gas" or "GHG" means emissions released into the atmosphere of carbon dioxide (CO_2), nitrous oxide (N_2O) and methane (CH_4), which are produced as the result of combustion or transport of fossil fuels. Other greenhouse gases may include hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulfur hexafluoride (SF_6), which are generated in a variety of industrial processes. Greenhouse gases may be defined or expressed in terms of a metric ton of CO_2-equivalent, in order to allow comparison between the different effects of gases on the environment; *provided, however*, that the definition of the term "Greenhouse Gas", as set forth in the immediately preceding sentence, shall be deemed revised to include any update or other change to such term by the CARB or any other Governmental Authority.

"Guarantor" is that certain guarantor of Seller set forth in Section 1.07(b)(i).

"Guarantor Cross Default Amount" is the dollar amount set forth in Section 1.07(b)(iii).

"Guaranty Agreement" means a guaranty agreement substantially in the form of Exhibit O.

"Host Site" means the site at which the Site Host Load is consumed, including real property, facilities and equipment owned or operated by the Site Host or its Related Entities located at such site.

"Hour-Ahead Scheduling Deadline" means 30 minutes before the deadline established by the CAISO for the submission of schedules for the applicable hour.

"IFM" (i.e., the Integrated Forward Market) has the meaning set forth in the CAISO Tariff.

"IFM Load Uplift Obligation" means the obligation of a Scheduling Coordinator to pay its share of unrecovered IFM Bid Costs (as defined in the CAISO Tariff) paid to resources through Bid Cost Recovery (as defined in the CAISO Tariff).

"IFRS" has the meaning set forth in Section 3.20(b)(iii).

"Incipient Event of Default" has the meaning set forth in Section 9.06(a).

"Interconnection Study" means a study prepared by or on behalf of the Transmission Provider or the CAISO to evaluate the impact of the interconnection of the Generating Facility to the Transmission Provider's electric system or the applicable Control Area operator's electric grid.

"Interest Rate" means an annual rate equal to the rate published in *The Wall Street Journal* as the "Prime Rate" (or, if more than one rate is published, the arithmetic mean of such rates) as of the date payment is due plus two percentage points; *provided, however*, that in no event shall the Interest Rate exceed the maximum interest rate permitted by Applicable Laws.

"Inter-SC Trade" means a trade between Scheduling Coordinators of electric energy, Ancillary Service (as defined in the CAISO Tariff), or IFM Load Uplift Obligation in accordance with the CAISO Tariff.

"JAMS" means the Judicial Arbitration and Mediation Services, Inc. or any successor entity.

"kW" means a kilowatt (1,000 watts) of electric capacity or power output.

"kWh" means a kilowatt-hour (1,000 watt-hours) of electric energy.

"LAR" means local area reliability, which is any program of localized resource adequacy requirements established for jurisdictional load serving entities by the CPUC pursuant to the Resource Adequacy Rulings, or by another Local Regulatory Authority having jurisdiction over the load serving entity. LAR may also be known as local resource adequacy, local RAR, or local capacity requirement in other regulatory proceedings or legislative actions.

"LAR Showings" means the LAR compliance showings (or similar or successor showings) a load serving entity is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the Resource Adequacy Rulings, or to a Local Regulatory Authority having jurisdiction over the load serving entity.

"Lease" means one or more agreements whereby Seller leases the Site(s) described in Section 1.02 and Exhibit B from a third party, the term of which lease begins on or before the Term Start Date and extends at least through the Term End Date.

"Lender" means any third-party institution or entity or successor in interest or assignees that either (i) purchases the Generating Facility and then leases it to Seller under a Sale-Leaseback Transaction, or (ii) provides development, bridge, construction, or permanent debt or tax equity financing or refinancing (including an Equity Investment) for the Generating Facility to Seller or credit support in connection with this Agreement.

"Letter of Credit" means an irrevocable, nontransferable standby letter of credit provided by Seller and issued by a U.S. commercial bank or a U.S. branch of a foreign bank with such bank having a Credit Rating of at least (a) "A-" from S&P and "A3" from Moody's, if such entity is rated by both rating agencies, or (b) "A-" from S&P or "A3" from Moody's, if such entity is rated by only one of the ratings agencies, in each case, substantially in the form of Exhibit P. All costs to establish and maintain the Letter of Credit shall be borne by Seller.

"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 fails to maintain a Credit Rating of at least "A-" by S&P and "A3" by Moody's;

(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 such Letter of Credit disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, such Letter of Credit;

(d) Such 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 within 30 days before such Letter of Credit expires or terminates; or

(f) The issuer of such Letter of Credit becomes 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 Agreement.

"LGIA" (i.e., Large Generator Interconnection Agreement or Standard Large Generator Interconnection Agreement) has the meaning set forth in the CAISO Tariff.

"Local Regulatory Authority" has the meaning set forth in the CAISO Tariff.

"Locational Marginal Price" (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), as of the Early Termination Date, resulting from the termination of this Agreement, expressed in dollars and determined in a commercially reasonable manner. Factors used in determining the loss of economic benefit to a Party may include:

(a) Reference to information supplied by one or more third parties, which shall exclude Related Entities 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;

(b) [Intentionally omitted];

(c) Comparable transactions;

(d) Forward price curves based on economic analysis of the relevant markets; and

(e) Settlement prices for comparable transaction at liquid trading hubs (e.g., NYMEX);

All of which should be calculated for the remainder of the Term and must include the value of Related Products. 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.

"Master File" has the meaning set forth in the CAISO Tariff.

"Maximum Potential Energy" means the maximum amount of energy in MWh that the Generating Facility is capable of delivering based upon the lower of (i) PMax and (ii) the capacity available as reported in OMS.

"Mediator" has the meaning set forth in Section 10.02.

"Metered Amounts" means the quantity of electric energy, expressed in kWh, as recorded by (i) the CAISO-Approved Meter(s), which quantity may include compensation factors introduced by the CAISO into the CAISO-Approved Meter(s), or (ii) Check Meter(s), as applicable.

"Metering Interval" means the smallest measurement time period over which data are recorded by the CAISO-Approved Meters or Check Meters.

"Milestone Schedule" means Seller's milestone schedule, the form of which is attached to this Agreement as Exhibit Q.

"Monthly Contract Payment" has the meaning set forth in Section 4.01.

"Monthly RA Capacity Price" (*MRACP*) means the amount in dollars per kW-month, as determined by Buyer and updated annually by an Advice Letter filed by Buyer and approved by the CPUC.

"Monthly Scheduling Fee" is described in Section 4(b) of Exhibit G.

"Moody's" means Moody's Investor Services, Inc.

"MRI-S" means the Market Results Interface – Settlements system operated and maintained by the CAISO as the repository of settlement quality meter data, or any successor thereto.

"MW" means a megawatt (1,000,000 watts) of electric capacity or power output.

"MWh" means a megawatt-hour (1,000,000 watt-hours) of electric energy or power output.

"NERC" means the North American Electric Reliability Corporation, or any successor entity.

"NERC Reliability Standards" means the most recent version of 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 the NERC and approved by the applicable regulatory authorities, which are available at http://www.nerc.com/files/Reliability_Standards_Complete_Set.pdf, or any successor thereto.

"NERC Standards Non-Compliance Penalties" means any and all monetary fines, penalties, damages, interest or assessments by the NERC, the CAISO, the WECC, a Governmental Authority or any Person 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 Report" means the list of resources with corresponding annual Net Qualifying Capacity (NQC) (as defined in the CAISO Tariff) values published by CAISO, or any successor report that Buyer determines accomplishes a similar purpose.

"New Qualifying Facility" means a Qualifying Facility that (i) commenced Parallel Operation for the first time on or after the Effective Date, or (ii) materially modified or repowered on or after the Effective Date.

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

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

"Notice" means notices, requests, statements or payments provided in accordance with Section 9.08 and Exhibit N.

"OMS" means the CAISO Outage Management System.

"Operate" 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 order to produce the Power Product in accordance with Prudent Electrical Practices.

"Operational Characteristics" means the information included under the heading "Operational Characteristics" in Exhibit B.

"Outage" has the meaning set forth in the CAISO Tariff.

"Outage Schedule" has the meaning set forth in Section 2(a) of Exhibit R.

"Outage Schedule Submittal Requirements" describes the obligations of Seller to submit maintenance and Planned Outage schedules (as defined in the CAISO Tariff under WECC rules) to Buyer, as set forth in Exhibit R.

"Parallel Operation" means the Generating Facility's electrical apparatus is connected to the Transmission Provider's system and the circuit breaker at the point of common coupling is closed. The Generating Facility may be producing electric energy or consuming electric energy at such time.

"Participating Intermittent Resource" has the meaning set forth in the CAISO Tariff.

"Party" has the meaning set forth in the Preamble.

"Peak Months" means June, July, August, and September.

"Performance Assurance" means collateral (in the amount of the Performance Assurance Amount) for Seller's performance under this Agreement in the form of cash, Letter(s) of Credit, or the Guaranty Agreement. Performance Assurance is only required to be posted by Seller if the Generating Facility is a New Qualifying Facility.

"Performance Assurance Amount" has the meaning set forth in Section 1.07(a)(ii).

"Performance Tolerance Band Lower Limit" is determined in Section 1 of Exhibit K.

"Performance Tolerance Band Upper Limit" is determined in Section 1 of Exhibit K.

"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 or retire the Generating Facility or to Forecast or deliver the electric energy produced by the Generating Facility to Buyer.

"Person" means an individual, partnership, corporation, business trust, limited liability company, limited liability partnership, joint stock company, trust, unincorporated association, joint venture or other entity or a Governmental Authority.

"PGA" (i.e., Participating Generator Agreement) has the meaning set forth in the CAISO Tariff.

"Physical Trade" has the meaning set forth in the CAISO Tariff.

"Physical Trade Settlement Amount" means the dollar amount calculated in accordance with Exhibit L.

"PIRP" (i.e., Participating Intermittent Resource Program) 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 Buyer determines accomplishes a similar purpose.

"PIRP Forecasting Program" means the rules, protocols, procedures and standards for Participating Intermittent Resources under the CAISO's Eligible Intermittent Resource Protocol, as it may be amended from time to time, as set forth in the CAISO Tariff, or any successor thereto.

"Planned Outage" means the removal of equipment from service availability for inspection and/or general overhaul of one or more major equipment groups. To qualify as a Planned Outage, the maintenance (a) must actually be conducted during the Planned Outage, and in Seller's sole discretion must be of the type that is necessary to reliably maintain the Project, (b) cannot be reasonably conducted during Project operations, and (c) causes the generation level of the Project to be reduced by 1 MW or more.

"PMax" has the meaning set forth in the CAISO Tariff.

"PNode" has the meaning set forth in the CAISO Tariff.

"Power Output" means the average rate of electric energy delivery during one Metering Interval, converted to an hourly rate of electric energy delivery, in kWh per hour, that is equal to the product of Metered Amounts for one Metering Interval, in kWh per Metering Interval, times the number of Metering Intervals in a one-hour period.

"Power Product" means (a) the Contract Capacity and (b) all electric energy produced by the Generating Facility, net of all Station Use and any and all of the Site Host Load.

"Power Product Curtailment" means curtailment of delivery of Product from the Project resulting from (a) curtailment instruction by the CAISO (whether directly or through the Scheduling Coordinator or the Transmission Provider), for any reason, including, but not limited to, an Exceptional Dispatch (as defined in the CAISO Tariff), any System Emergency, any warning of an anticipated System Emergency, or any warning of an imminent condition or situation which could jeopardize the CAISO's or Transmission Provider's electric system integrity or the integrity of other systems to which the CAISO or Transmission Provider is connected, any warning, forecast, or anticipated overgeneration conditions, including a request from CAISO to manage over-generation conditions; (b) curtailment ordered by the Transmission Provider for reasons including, but not limited to, (i) any situation that affects normal function of the electric system including, but not limited to, any abnormal condition that requires action to prevent circumstances such as equipment damage, loss of load, or abnormal voltage conditions, (ii) any warning, forecast or anticipation of conditions or situations that jeopardize the Transmission Provider's electric system integrity or the integrity of other systems to which the Transmission Provider is connected; (c) curtailment ordered by the Transmission Provider as a result of scheduled or unscheduled maintenance or construction on the Transmission Provider's transmission facilities that prevents the delivery or receipt of energy to or at the Delivery Point, (d) curtailment in accordance with Seller's obligations under its interconnection agreement with the Transmission Provider; or (e) curtailment ordered by any Transmission Provider; provided that Seller has contracted for firm transmission or equivalent arrangements with such Transmission Provider for the Product to be delivered to the Delivery Point and 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 Power Product Curtailment shall not include Economic Dispatch Down.

"Power Rating" means the electrical power output value indicated on the generating equipment nameplate.

"PPT" means Pacific Daylight time when California observes Daylight Savings Time and Pacific Standard Time otherwise.

"Primary Fuel" means the fuel or combination of fuels that are provided for in the Permits applicable to the Generating Facility.

"Product" means the Power Product and the Related Products.

"Project" means the Generating Facility.

"Project NQC" has the meaning set forth in Section 1.02(e).

"Project Specifications" means the information included under the heading "Project Specifications" in Exhibit B.

"Prudent Electrical Practices" means those practices, methods and acts that would be implemented and followed by prudent operators of electric 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 at the time a decision was made, could reasonably have been expected to accomplish the desired result consistent with good business practices, reliability and safety.

Prudent Electrical Practices includes, at a minimum, those professionally responsible practices, methods and acts described in the preceding sentence that comply with the manufacturer's warranties, restrictions in this Agreement, and the requirement of Governmental Authorities, WECC standards, the CAISO and Applicable Laws. Prudent Electrical Practices shall include 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, 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 Emergency Conditions whether caused by events on or off the Site;

(c) Preventative, 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 designed and manufactured to meet or exceed the standard of durability that is generally used for electric energy generation operations 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.

"PTSA$_i$" has the meaning set forth in Section 2 of Exhibit L.

"PURPA" means the Public Utility Regulatory Policies Act of 1978, Public Law, 95 617, as amended from time to time.

"PURPA Contract" has the meaning set forth in Recital B.

"QF PGA" (i.e., Qualifying Facility Participating Generator Agreement) has the meaning set forth in the CAISO Tariff.

"QF PPA" has the meaning set forth in Recital D.

"Qualifying Facility" means an electric energy generating facility that:

(a) Complies with the "qualifying cogeneration facility" or "qualifying small power production facility" definition and other requirements (including the requirements set forth in 18 CFR Part 292, Section 292.205) established by PURPA and any FERC rules, as amended from time to time implementing PURPA, as set forth in 18 CFR Part 292, Section 292.203 *et seq*.; and

(b) Has filed with the FERC (i) an application for FERC certification, pursuant to 18 CFR Part 292, Section 292.207(b)(1), which the FERC has granted, or (ii) a notice of self-certification pursuant to 18 CFR Part 292, Section 292.207(a).

"RA Capacity Payment" has the meaning set forth in Section 3 of Exhibit D.

"RAR" means the resource adequacy requirements established for load serving entities by the CPUC pursuant to the Resource Adequacy Rulings, or by a Local Regulatory Authority or other Governmental Authority having jurisdiction.

"RAR Showings" means the RAR compliance showings (or similar or successor showings) a load serving entity is required to make to the CPUC (or, to the extent authorized by the CPUC, to the CAISO), pursuant to the Resource Adequacy Rulings, or to a Local Regulatory Authority having jurisdiction.

"RA Substitute Capacity" has the meaning set forth in the CAISO Tariff.

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

"Real-Time Price" means the Real-Time Market price for Uninstructed Imbalance Energy (as defined in the CAISO Tariff) or any successor price for short-term imbalance energy, as such price or successor price is defined in the CAISO Tariff, that would apply to the Generating Facility, which values are, as of the Effective Date, posted by the CAISO on its website. The values used in this Agreement will be those appearing on the CAISO website on the eighth Business Day of the calendar month following the month for which such prices are being applied.

"Related Entity" means, with respect to a party, any Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with such party. For purposes of this Agreement, "control" means the direct or indirect ownership of 50% or more of the outstanding capital stock or other equity interests having ordinary voting power.

"Related Products" means (i) with respect to Resource Adequacy Benefits (a) that portion of the Resource Adequacy Benefits that are associated with the Contract Capacity, and (b) to the extent that there are Resource Adequacy Benefits associated with the generating capacity of the Generating Facility other than the Contract Capacity, that portion of the Resource Adequacy Benefits that are not associated with the Contract Capacity and that are in excess of those Resource Adequacy Benefits used by Seller or by a Site Host, both in connection with the Host Site, to meet a known and established resource adequacy obligation under any Resource Adequacy Ruling at the point in time when the Resource Adequacy Benefits are to be used, and (ii) any Green Attributes, Capacity Attributes and all other attributes associated with the electric energy or capacity of the Generating Facility (but not including any Financial Incentives) that are in excess of those Green Attributes, Capacity Attributes or other attributes used, or retained for future use, by Seller or a Site Host, both in connection with the Host Site, to meet a known and established, at the point in time when the relevant attribute(s) are to be used or retained, obligation under Applicable Law.

"Renewable Energy Credit" has the meaning set forth in Public Utilities Code Section 399.12(g), as may be amended from time to time or as further defined or supplemented by Applicable Law.

"Resource Adequacy Benefits" means the rights and privileges attached to the Generating Facility that satisfy any Person's Resource Adequacy Obligations and shall include any local, zonal or otherwise locational attributes associated with the Generating Facility.

"Resource Adequacy Obligations" means a Person's resource adequacy obligations, as those obligations are set forth in any Resource Adequacy Rulings.

"Resource Adequacy Resource" has the meaning set forth in the CAISO Tariff.

"Resource Adequacy Rulings" means CPUC Decisions 04 01 050, 04-10-035, 05-10-042, 06-06-024, 06-07-031 and any subsequent CPUC ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, as such CPUC decisions, rulings, laws, rules or regulations may be amended or modified from time to time during the Term.

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

"S&P" means the Standard & Poor's Rating Group.

"Sale-Leaseback Transaction" means a transaction in which Seller (i) sells the Generating Facility to a Lender providing tax equity financing to Seller and (ii) leases the Generating Facility from Lender under an agreement authorizing Seller to act in all matters relating to the control and Operation of the Site and the Generating Facility for the Term, subject to Lender's right to terminate the lease in the event of a default by Seller as set forth in the agreement between Seller and Lender.

"Schedule" means the action of the Scheduling Coordinator, or its designated representatives, of notifying, requesting, and confirming to the CAISO, the CAISO-Approved Quantity of electric energy.

"Scheduled Amount" means the Day-Ahead Schedule comprised of the quantity (in MWh) of electric energy expected to be produced by the Generating Facility that is scheduled from Seller or Seller's Scheduling Coordinator to Buyer in a Physical Trade in the IFM.

"Scheduling Coordinator" means a Person certified by the CAISO for the purposes of undertaking the functions specified in Exhibit G.

"Scheduling Fee" means the Monthly Scheduling Fee and the SC Set-Up Fee.

"SC Replacement Date" has the meaning set forth in Section 7(b) of Exhibit G.

"SC Set-Up Fee" is described in Section 4(a) of Exhibit G.

"SC Trade Settlement Amount" means the amount(s) determined in accordance with Exhibit M.

"SC Trade Tolerance Band" means the greater of (a) three percent of the Scheduled Amount or (b) one MW.

"SDD Adjustment" means the adjustment, if any, to the Monthly Contract Payment, as determined in accordance with Exhibit K.

"SDD Administrative Charge" has the meaning set forth in Section 2 of Exhibit K.

"SEC" means the United States Securities and Exchange Commission, or any successor entity.

"Security Interest" has the meaning set forth in Section 3 of Exhibit F.

"Self-Schedule" has the meaning set forth in the CAISO Tariff.

"Seller" has the meaning set forth in the Preamble.

"Seller's Day-Ahead Forecast" means the most recently updated Forecast submitted by the Day-Ahead Scheduling Deadline.

"Seller's Energy Forecast" means Seller's most recently updated Forecast submitted in accordance with Exhibit I.

"Seller's Final Energy Forecast" means Seller's Energy Forecast as may be updated for Forced Outages that occur after the Hour-Ahead Scheduling Deadline, but not for Ambient Outages.

"Settlement Agreement" has the meaning set forth in Recital D.

"Settlement Effective Date" has the meaning set forth in Recital D.

"Settlement Interval" has meaning set forth in the CAISO Tariff.

"SGIA" (i.e., Small Generator Interconnection Agreement) means the form of Interconnection Request (as defined in the CAISO Tariff) pertaining to a Small Generating Facility (as defined in the CAISO Tariff), which is attached to the CAISO Tariff as Appendix T.

"Simple Interest Payment" means a dollar amount calculated by multiplying the:

(a) Dollar amount on which the Simple Interest Payment is based; by

(b) Federal Funds Effective Rate or Interest Rate as applicable; by

(c) The result of dividing the number of days in the calculation period by 360.

"Site" means the real property on which the Generating Facility is located, as further described in Section 1.02(b) and Exhibit B.

"Site Control" means that Seller (a) owns the Site, (b) is the lessee of the Site under a Lease, (c) is the holder of a right-of-way grant or similar instrument with respect to the Site, or (d) is managing partner or other Person authorized to act in all matters relating to the control and Operation of the Site and Generating Facility.

"Site Description" means the information included under the heading "Site Description" in Exhibit B.

"Site Host" means the Person or Persons purchasing or otherwise using the Site Host Load or thermal energy output from the Generating Facility.

"Site Host Load" means the electric energy and capacity produced by or associated with the Generating Facility that serves electrical loads (that are not Station Use) of Seller or one or more third parties conducted pursuant to California Public Utilities Code Section 218(b).

"Station Use" means the electric energy produced by the Generating Facility that is (a) used within the Generating Facility to power the lights, motors, control systems and other electrical loads that are necessary for Operation, and (b) consumed within the Generating Facility's electric energy distribution system as losses needed to deliver electric energy to the Site Host Load, and (c) consumed within the generator collection system as losses between the generator(s) and the high voltage side of the Generating Facility output transformer(s).

"Successor" has the meaning set forth in Section 3.20(b)(iii).

"Supply Plan" has the meaning set forth in the CAISO Tariff.

"System Emergency" has the meaning set forth in the CAISO Tariff.

"Tariff Rule 21" means the interconnection standards of the Transmission Provider for distributed generation adopted by the CPUC in Decisions 00-11-001 and 00-12-037, as modified by the CPUC.

"Telemetry System" means a system of electronic components that interconnects the CAISO and the Generating Facility in accordance with the CAISO's applicable requirements as set forth in Section 3.09.

"Term" has the meaning set forth in Section 1.01.

"Term End Date" has the meaning set forth in Section 1.01.

"Term Start Date" has the meaning set forth in Section 1.01.

"Term Year" means a 12-month period beginning on the first day of the Term and each successive 12-month period thereafter.

"Termination Payment" has the meaning set forth in Section 6.03.

"TOD Period" means the time of delivery period used to calculate the Monthly Contract Payment set forth in Exhibit D.

"Transmission Provider" means any Person responsible for the interconnection of the Generating Facility with the interconnecting utility's electrical system or the CAISO Controlled Grid or transmitting the Metered Amounts on behalf of Seller from the Generating Facility to the Delivery Point.

"Uninstructed Deviation GMC Rate" means the administrative grid management charge applied by the CAISO to Uninstructed Deviations (as defined in the CAISO Tariff) using the absolute value for the Uninstructed Deviations by Settlement Interval.

"Uninstructed Deviation Penalty" means the penalty set forth in the CAISO Tariff.

"Verification Date" has the meaning set forth in Section 1 of Exhibit C.

"Web Client" has the meaning set forth in Section 2(a) of Exhibit R.

"Web Scheduler" has the meaning set forth in Section 1(b) of Exhibit R.

"WECC" means the Western Electricity Coordinating Council, the regional reliability council for the western United States, northwestern Mexico, and southwestern Canada, or any successor entity.

"WREGIS" means the Western Renewable Energy Generation Information System, or any successor thereto.

**** End of Exhibit A ****

EXHIBIT B
Generating Facility and Site Description

1. Generating Facility Description.

{Buyer Comment: Provide description of the Generating Facility equipment, systems, electric metering and the Seller's measurement of the Useful Thermal Energy Output, control systems and features, including a site plan drawing and a one-line diagram, operational characteristics of the generator and the generator nameplate(s).}

Operational Characteristics

{Drafting Note: Operational Characteristics shall be determined with the assumption that full capacity deliverability status has been obtained for the Project.}

- maximum generation capacity (PMax of the Project): ____MW
- minimum generation capacity (PMin of the Project): ____MW
- minimum dispatchable level (DMin of the Project): ___ MW

{Buyer Comment: The minimum dispatchable level shall be 0 MW unless otherwise demonstrated via certification by a qualified California-licensed professional engineer prior to the Term Start Date. Upon mutual written agreement between the Parties, the Scheduling Coordinator may request that the CAISO modify the Master File for the Project.}

- Ramp Rate: ____MW/Minute
- maximum number of Start-Ups per calendar day (if any such operational limitations exist): _____

Other Requirements:

- Start-Up Time: _____Minutes
- Minimum Run Time after Start-Up (if applicable): _____Minutes
- Minimum Down Time after shut-down (if applicable): _____Minutes

{Drafting Note: Enter the maximum flexibility the Project can offer given the operational constraints of the technology.}

Starts and other Run Time Limitations

Start limitations: _____

Run hour limitations: _____

Project Specifications:

- Project name: _____

- Project Site name: _____
- Project physical address: _____
- Total number of Generating Units at the Project: _____
- Technology type: _____
- Interconnection Point of Project: _____
- Service territory of Project: _____
- Substation: _____
- Description of Generating Units: _____

2. Site Description.

{Buyer Comment: Provide a legal description of the Site, parcel map marked with Generating Facility boundaries, and a Site map showing the relationship of the Site to interconnection point.}

**** End of Exhibit B ****

EXHIBIT C
Procedure for Capacity Verification

1. Seller's Notice of Verification Date.

Seller shall provide at least thirty (30) days prior Notice to Buyer of the date selected by Seller ("Verification Date"), which Verification Date shall be no later than thirty (30) days following the Term Start Date, during which Seller intends to allow Buyer access to the Site and all records or reports to verify the Contract Capacity. Upon Buyer's request, Seller shall make reasonable efforts to reschedule the Verification Date.

2. Verification of Contract Capacity.

Buyer shall complete a physical or virtual site visit (or, at Buyer's sole discretion, waive such a visit) on the Verification 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 Contract Capacity. In order to determine the Contract Capacity, Buyer shall verify the Power Rating of the generating equipment that is installed at the Generating Facility.

**** End of Exhibit C ****

EXHIBIT D (As-Delivered Option)
Monthly Contract Payment Calculation

*{Drafting Note: This entire exhibit is applicable when Seller elects to have its contract payment updated in accordance with the **time of delivery**. This entire exhibit will be deleted if Seller elects to fix contract payment at **time of execution** (per alternative exhibit below).}*

1. Introduction. Each Monthly Contract Payment payable in arrear following the end of each calendar month shall be the sum of all Energy Payments *plus* any RA Capacity Payment for all applicable periods in such month, all as set forth in this Exhibit D.

2. Energy Payment. "Energy Payment" shall be the aggregate amount of the Metered Amounts (in MWh) minus Extra Energy (in MWh) for all hours in a month *multiplied by* each such hour's applicable Day-Ahead Price (in dollars per MWh) at the applicable PNode.

$$\begin{matrix}\text{Energy Payment}\\ \text{in dollars}\end{matrix} = \sum_{\substack{\text{First Settlement}\\ \text{Interval in month}}}^{\substack{\text{Last Settlement}\\ \text{Interval in month}}} \begin{matrix}(\text{Metered Amounts} - \text{Extra Energy})\\ \times\ \text{Day-Ahead Price}\end{matrix}$$

   (a) The applicable PNode shall be the PNode designated by the CAISO for the Generating Facility, as it may be amended from time to time.

   (b) Seller shall be responsible for and pay all CAISO Charges, and Seller shall be entitled to all CAISO Revenues, with respect to all Extra Energy in any given Settlement Interval.

   (c) Once 120% of the Expected Term Year Energy Production is achieved, no further electric energy payments will be calculated for the remaining months in the current Term Year.

3. RA Capacity Payments.

   (a) Seller is eligible for a RA Capacity Payment only if Buyer is able to apply the entire Project NQC towards Buyer's RAR Showings. For each month that the foregoing condition is met, the "RA Capacity Payment" shall be the sum of (i) Metered Amounts (in MWh) for all hours in a month *multiplied by* (ii) the Hourly Capacity Price (in dollars per MWh) for each such hour as set forth in the most recent Contract Price Advice Letter approved by the CPUC, as determined by Buyer.

$$\text{RA Capacity Payment} = \sum_{\text{First hour in month}}^{\text{Last hour in month}} \begin{matrix}(\text{Metered Amounts}\\ \times\ \text{Hourly Capacity Price})\end{matrix}$$

(b) Maximum Monthly RA Capacity Payment. Notwithstanding Section 3(a) of Exhibit D, the RA Capacity Payment in any month shall not exceed the amount of the Project NQC for the applicable month (NQC_{month}), in kW, as issued by the CAISO in its Net Qualifying Capacity Report for the applicable year for the Generating Facility, *multiplied by* the Monthly RA Capacity Price (*MRACP*) in dollars per kW-month, as set forth in the capacity price table for Term Year 1 (in dollars per kW-month) of the most recent Contract Price Advice Letter approved by the CPUC, as determined by Buyer.

$$\begin{array}{c} Maximum\ Monthly\ RA \\ Capacity\ Payment\ in\ dollars \end{array} = NQC_{month} \times MRACP$$

(c) Maximum Hourly RA Capacity Payment. Once Metered Amounts in any hour exceed Contract Capacity *multiplied by* one hour, then no further capacity payments will be calculated for the remaining Metered Amounts for such hour.

EXHIBIT D (As-Executed Option)
Monthly Contract Payment Calculation

*{Drafting Note: This entire exhibit is applicable when Seller elects to have its contract payment fixed at the **time of execution**. This entire exhibit will be deleted if Seller elects to have the contract payment updated at the **time of delivery** (per alternative exhibit above).}*

1. Introduction. Each Monthly Contract Payment payable in arrear following the end of each calendar month shall be the sum of all Energy Payments *plus* any RA Capacity Payments for all applicable periods in such month, all as set forth in this Exhibit D.

2. Energy Payment. "Energy Payment" shall be the aggregate amount of the Metered Amounts (in MWh) minus Extra Energy (in MWh) for all hours in a month *multiplied by* the applicable Contract TOD Energy Price (in dollars per MWh) specified for each TOD Period ($\boldsymbol{CP_{Energy-TOD}}$).

$$\begin{matrix}\text{Energy Payment}\\ \text{in dollars}\end{matrix} = \sum_{\substack{\text{First Settlement}\\ \text{Interval in month}}}^{\substack{\text{Last Settlement}\\ \text{Interval in month}}} (\text{Metered Amounts} - \text{Extra Energy}) \times CP_{Energy-TOD}$$

(a) Time of Delivery Periods. The TOD Periods are as set forth below.

{Drafting Note: This table shall be populated with the most recently CPUC-approved TOD Periods for the PURPA Contract as of the Effective Date.}

TOD Period	Weekdays		Weekends & Holidays*	
	Summer** (Jun – Sep)	Winter (Oct – May)	Summer (Jun – Sep)	Winter (Oct – May)
1 = On-Peak				
2 = Mid-Peak				
3 = Off-Peak				
4 – Super-Off Peak				

*Holidays are New Year's Day (January 1), President's Day (third Monday in February), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (first Monday in September), Veterans Day (November 11), United States Thanksgiving (fourth Thursday in November), and Christmas Day (December 25). When any holiday falls on a Sunday, the following Monday will be recognized as an off-peak period. No change will be made for holidays falling on a Saturday.

**The Summer Season commences at 12:00 a.m. on June 1 and continues until 12:00 a.m. on October 1 of each year.

(b) Contract TOD Energy Price. This Contract TOD Energy Price table shall be used to calculate the Energy Payment. The Contract TOD Energy Price (in dollars per MWh) is unique to this Agreement and specific to the Generating Facility.

{Drafting Note: The prices within this table shall be determined using the methodology described in the most recent Contract Price Advice Letter filed pursuant to the Decision by Buyer for the applicable pricing node of the Generating Facility as of the Effective Date.}

Month	1 - On-Peak	2 - Mid-Peak	3 - Off-Peak	4 - Super-Off-Peak
Jan				
Feb				
Mar				
Apr				
May				
Jun				
Jul				
Aug				
Sep				
Oct				
Nov				
Dec				

(c) Seller shall be responsible for and pay all CAISO Charges and Seller shall be entitled to all CAISO Revenues with respect to all Extra Energy in any given Settlement Interval.

(d) Once 120% of the Expected Term Year Energy Production is achieved, no further electric energy payments will be calculated for the remaining months in the current Term Year**.**

3. RA Capacity Payments.

(a) Seller is eligible for a RA Capacity Payment only if Buyer is able to apply the entire Project NQC towards Buyer's RAR Showings. For each month that the foregoing condition is met, the "RA Capacity Payment" shall be the sum of (i) Metered Amounts (in MWh) for all hours in a month *multiplied by* (ii) the applicable Capacity Price (in dollars per MWh) specified for each TOD Period ($\boldsymbol{P_{Capacity-TOD}}$) set forth in Section 3(b) of this Exhibit D.

$$RA\ Capacity\ Payment\ in\ dollars = \sum_{First\ Hour}^{Last\ Hour} (Metered\ Amounts \times P_{Capacity-TOD})$$

(b) Capacity Price. The applicable "Capacity Price" set forth in the following table shall be used to calculate the RA Capacity Payment. The Capacity Price is unique to this agreement and specific to the Generating Facility.

{Drafting Note: The prices within this table will be populated with values from the most recent Contract Price Advice Letter filed pursuant to the Decision by Buyer as of the Effective Date.}

Month	1 - On-Peak	2 - Mid-Peak	3 - Off-Peak	4 - Super-Off-Peak
Jan				
Feb				
Mar				
Apr				
May				
Jun				
Jul				
Aug				
Sep				
Oct				
Nov				
Dec				

The values shown above shall be multiplied by the Annual Price Escalation Factor for the applicable Term Year shown in Section 3(c) of this Exhibit D. For the avoidance of doubt, the applicable Annual Price Escalation Factor only applies to the Term Year and does not increase the Capacity Prices set forth in the table above.

(c) Maximum Monthly RA Capacity Payment. Notwithstanding Section 3(a) of Exhibit D, the RA Capacity Payment in any month shall not exceed the amount of Project NQC for the applicable month (NQC_{month}) in kW, as issued by the CAISO in its Net Qualifying Capacity Report for the applicable year for the Generating Facility, *multiplied by* the applicable Monthly Capacity Price (*MRACP*) in dollars per kW-month shown in the table below.

$$Maximum\ Monthly\ Capacity\ Payment\ in\ dollars = NQC_{month} \times MRACP$$

{Drafting Note: The prices within this table will be populated with values from the most recent Contract Price Advice Letter filed pursuant to the Decision by Buyer as of the Effective Date. The number of Term Years shall not exceed seven (7) for Existing Qualifying Facilities and twelve (12) for New Qualifying Facilities.}

Term Year	Monthly Capacity Price ($/kW-month)	Annual Price Escalation Factor
1		
2		
3		
4		
5		
6		
7		
[8]		
[9]		
[10]		
[11]		
[12]		

(d) Maximum Hourly RA Capacity Payment. Once Metered Amounts in any hour exceed Contract Capacity *multiplied by* one hour, then no further capacity payments will be calculated for the remaining Metered Amounts for such hour.

**** End of Exhibit D ****

EXHIBIT E

[Intentionally Omitted]

**** End of Exhibit E ****

EXHIBIT F
New Qualifying Facilities Requirements

1. Financial Information.

(a) If requested by Buyer, Seller shall deliver to Buyer the following financial statements, which in all cases shall be for the most recent accounting period and prepared in accordance with GAAP:

(i) Within 120 days following the end of each fiscal year, a copy of Seller's and its Guarantor's 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 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 Seller's and its Guarantor's 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 fiscal year;

provided, however, that if Seller is not an SEC reporting company or if the financial statements required under Sections 1(a)(i) or (ii) of this Exhibit F are not audited financial statements, a Responsible Officer of Seller will certify such financial statements as being in accordance with all Applicable Laws, prepared in accordance with GAAP and fairly stated in all material respects (subject to normal year-end audit adjustments for the quarterly financial statements); *provided further*, that such information must be provided only to those employees of Buyer that need to know such information for financial risk management purposes and may not be disclosed to third parties except as permitted under Section 9.10.

(b) For purposes of the requirement set forth in Section 1(a) of this Exhibit F:

(i) If Seller or its Guarantor's financial statements are publicly available electronically on the website of Seller, its Guarantor or the SEC, then Seller is deemed to have met this requirement; and

(ii) Should any such financial statements not be available on a timely basis due to a delay in preparation or certification, such delay is not an Event of Default so long as Seller diligently pursues the preparation, certification and delivery of the statements.

2. Performance Assurance.

(a) Posting Performance Assurance. On or before the Term Start Date (or within 10 Business Days of any material modification or repowering), Seller shall post Performance Assurance with Buyer and shall maintain the Performance Assurance Amount at all times on and after the Term Start Date until such time as Seller has satisfied all monetary obligations which survive any termination of this Agreement, not to exceed 365 days following the Term End Date.

The Performance Assurance Amount shall be either in the form of cash or Letter of Credit acceptable to Buyer; *provided, however*, that if, as of the Term Start Date, Seller has posted the Development Security in the form of cash or a Letter of Credit and Buyer has either not returned the Development Security to Seller or given Seller Notice, in accordance with this Exhibit F, of its determination regarding the disposition of the Development Security by such date, then Seller may withhold the portion of the Performance Assurance Amount equal to the Development Security or any portion thereof held by Buyer until three Business Days following the later of Seller's receipt or forfeiture of the Development Security or any portion thereof pursuant to Section 4(c) or (e) of this Exhibit F, after which Seller shall be obligated to post the full Performance Assurance Amount. In lieu of cash or a Letter of Credit, Buyer may accept a Guaranty Agreement, in accordance with Section 2(c) of this Exhibit F, from a Guarantor acceptable to Buyer, to satisfy Seller's Performance Assurance obligation.

(b) Letters of Credit. Performance Assurance provided in the form of a Letter of Credit is subject to the following provisions:

(i) Each Letter of Credit must be maintained for the benefit of Buyer;

(ii) Seller shall:

(1) Renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit;

(2) If the bank that issued an outstanding Letter of Credit has indicated its intent not to renew such Letter of Credit, provide alternative Performance Assurance acceptable to Buyer at least 30 days before the expiration of the outstanding Letter of Credit or within five Business Days of such indication by the Bank, whichever is later; and

(3) If the bank issuing a Letter of Credit fails to honor Buyer's properly documented request to draw on an outstanding Letter of Credit, provide alternative Performance Assurance acceptable to Buyer within three Business Day after such refusal;

(iii) Upon, or at any time after, the occurrence of a Letter of Credit Default, Seller shall provide to Buyer either a substitute Letter of Credit or alternative Performance Assurance acceptable to Buyer, in each case on or before the 10th Business Day after the occurrence thereof; and

(iv) Upon the occurrence and continuation of an Event of Default by Seller, or if an Early Termination Date has occurred or been designated as a result of an Event of Default by Seller for which there exist any unsatisfied payment obligations, then Buyer may draw on any undrawn portion of any outstanding Letter of Credit by submitting to the bank issuing such Letter of Credit one or more certificates specifying that such Event of Default or Early Termination Date has occurred and is continuing.

Cash proceeds received by Buyer from drawing upon the Letter of Credit shall be deemed Performance Assurance as security for Seller's obligations to Buyer and Buyer shall have the rights and remedies set forth in Section 3 of this Exhibit F with respect to such cash proceeds.

Notwithstanding Buyer's receipt of cash proceeds of a drawing under the Letter of Credit, Seller shall remain liable for any (1) failure to provide or maintain sufficient Performance Assurance, or (2) any amounts owing to Buyer and remaining unpaid after the application of the amounts so drawn by Buyer.

(v) In all cases, the costs and expenses of establishing, renewing, substituting, canceling, and increasing the amount of a Letter of Credit shall be borne by Seller.

(c) Guaranty Agreement. If Seller's Performance Assurance obligation is satisfied by a Guaranty Agreement, such agreement shall be in the form of Exhibit O executed by the Guarantor identified in Section 1.07(b)(i) or other party, in each case acceptable to Buyer and meeting the Credit Rating requirements for the Guarantor set forth immediately below. The Guarantor shall maintain a Credit Rating of at least:

(i) "BBB-" from S&P and "Baa3" from Moody's, if Guarantor is rated by both ratings agencies; or

(ii) "BBB-" by S&P or "Baa3" by Moody's if Guarantor is rated by only one of the ratings agency.

3. First Priority Security Interest in Cash or Cash Equivalent Collateral. To secure its obligations under this Agreement, and until released as provided herein, Seller grants to Buyer a present and continuing first-priority security interest ("Security Interest") in, and lien on (and right to net against), and assignment of the Development Security (if

applicable), Performance Assurance, any other cash collateral and cash equivalent collateral posted pursuant to Sections 2 and 4 of this Exhibit F and any and all interest thereon or proceeds resulting therefrom or from the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of Buyer, and Seller agrees to take such action as Buyer reasonably requires in order to perfect Buyer's Security Interest in, and lien on (and right to net against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.

Upon or any time after the occurrence of, and during the continuation of, an Event of Default caused by Seller or an Early Termination Date resulting from an Event of Default caused by Seller, Buyer may do any one or more of the following:

(a) Exercise any of its rights and remedies with respect to all Development Security and Performance Assurance, including any such rights and remedies under law then in effect;

(b) Draw on any outstanding Letter of Credit issued for its benefit; and

(c) Liquidate all Development Security and Performance Assurance then held by or for the benefit of Buyer free from any claim or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller.

Buyer 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 (Seller shall remain liable for any amounts owing to Buyer after such application), subject to Buyer's obligation to return any surplus proceeds remaining after such obligations are satisfied in full. Buyer may, in its sole discretion, draw all or any part of such amounts due to it from any form of security to the extent available, and from all such forms, and in any sequence Buyer may select; *provided, however*, that to the extent multiple instruments of credit support are provided by or on behalf of Seller, Buyer shall draw on each such instrument of credit support proportionately based on the maximum aggregate liability under each such instrument, such that, for the avoidance of doubt, Buyer must draw proportionately on all of such outstanding instruments in order to obtain its full claim for payment.

4. Development Security.

(a) Introduction. If Seller is required to post Development Security, such Development Security shall be held by Buyer as security for Seller meeting the Term Start Date until successful completion of Capacity Verification as set forth in Exhibit C and Seller delivers to Buyer the Contract Capacity Confirmation Certificate in accordance with Section 3.13(a), which Capacity Confirmation Certificate must provide that Seller has installed the equipment sufficient to provide the Contract Capacity designated by Seller in Section 1.02(d) on the Effective Date.

(b) Development Security. If Seller is required to post Development Security, Seller shall post such Development Security in accordance with the following terms and conditions:

(i) Seller shall post a development fee (the "Development Security") in the amount of $20 per kW of Contract Capacity on or before the 30th day following the Effective Date. Seller shall post additional Development Security in the amount of $40 per kW of Contract Capacity (for a total posted amount of $60 per kW of Development Security) at the end of the 18th month following the Effective Date. The Development Security shall be held by Buyer and shall be in the form of either a cash deposit or a Letter of Credit; and

(ii) If Seller establishes the Development Security by means of a Letter of Credit, such Letter of Credit shall be substantially in the form of Exhibit P.

(c) Forfeiture of Development Security for Failure to Commence Term by the Term Start Date; Extension of the Term Start Date.

(i) Failure to Meet the Term Start Date. Subject to Seller's right to extend the Term Start Date as provided in Section 4(c)(ii) of this Exhibit F or as a result of a Force Majeure as to which Seller is the Claiming Party (subject to Section 5.03), if the Term does not commence on or before the Term Start Date, Buyer may retain the entire Development Security (if applicable) and, if not already terminated, terminate this Agreement, and neither Party shall have liability for damages for failure to deliver or purchase the Product after the effective date of such termination.

(ii) Daily Delay Liquidated Damages to Extend Term Start Date. Subject to limitations set forth in Section 1.01(a), Seller may elect to delay the Term Start Date by paying to Buyer liquidated damages in an amount equal to one percent of the Development Security per day for each day (or portion thereof) from and including the original Term Start Date to and excluding the actual Term Start Date ("Daily Delay Liquidated Damages").

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

Seller may further extend the Term Start Date beyond the original Term Start Date extension period subject to the same terms applicable to the original Term Start Date extension.

The Daily Delay Liquidated Damages payments applicable to days included in any Term Start Date extension shall be nonrefundable and are in addition to and not to be considered part of the Development Security.

Seller shall 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 Term Start Date was actually extended.

In no event may Seller extend the Term Start Date for more than a total of 180 days by the payment of Daily Delay Liquidated Damages.

(d) Full Return of Development Security. The Development Security shall be returned to Seller in accordance with the following procedure. Subject to Seller commencing the Term by the Term Start Date, as the Term Start Date may have been extended in accordance with Section 4(c)(ii) of this Exhibit F or as a result of a Force Majeure as to which Seller is the Claiming Party (subject to Section 5.03), Seller demonstrates the Contract Capacity on or before the Firm Operation Date as follows:

(i) Successful completion of the Capacity Verification as set forth in Exhibit C; and

(ii) Seller delivers to Buyer the Contract Capacity Confirmation Certificate in accordance with Section 3.13(a), which Contract Capacity Confirmation Certificate must provide that Seller has installed the equipment sufficient to provide the entire Contract Capacity designated by Seller in Section 1.02(d) on the Effective Date.

(e) Deficient Installation of Contract Capacity; Partial Forfeiture and Partial Return of the Development Security. If, on or before the Firm Operation Date, Seller does not demonstrate any portion of the Contract Capacity or only demonstrates a portion of the Contract Capacity based on the Capacity Verification as set forth in Exhibit C or Seller's delivery of the Contract Capacity Confirmation Certificate in accordance with Section 3.13(a), then Seller will only be entitled to a return of the portion of the Development Security posted by Seller equal to the product of either (1) $20 per kW times the kilowatts of Contract Capacity which Seller has demonstrated, if any, if the Term Start Date occurs within 18 months of the Effective Date, or (2) $60 per kW times the kilowatts of Contract Capacity which Seller has demonstrated, if any, if the Term Start Date occurs after the 18th month following the Effective Date.

Seller shall forfeit and Buyer shall be entitled to retain the balance of the Development Security.

In addition, as of the Firm Operation Date, the Performance Assurance Amount for the Performance Assurance required to be posted and maintained pursuant to Section 2 of this Exhibit F shall be calculated using the adjusted Contract Capacity, and any amount of Performance Assurance in excess of that required for the adjusted Contract Capacity shall be returned to Seller.

(f) Seller shall provide Notice to Buyer of its request for a refund of the Development Security.

5. Interest Payments on Cash Deposits.

(a) Buyer shall calculate Simple Interest Payments using the Federal Funds Effective Rate and the cash amounts posted by Seller for the Development Security and Performance Assurance.

(b) Buyer shall pay such Simple Interest Payments concurrently with the return of the cash amounts posted by Seller for the Development Security or Performance Assurance, provided that:

(i) No Event of Default has occurred and is continuing with respect to Seller; and

(ii) No Early Termination Date for which any unsatisfied payment obligation of Seller exists, has occurred or has been designated as the result of an Event of Default by Seller.

(c) On or after the occurrence of an Event of Default by Seller or an Early Termination Date as a result of an Event of Default by Seller, Buyer shall retain any Simple Interest Payment amount as an additional Development Security amount or a Performance Assurance amount hereunder until:

(i) In the case of an Early Termination Date, the obligations of Seller under this Agreement have been satisfied; or

(ii) In the case of an Event of Default, for so long as such Event of Default is continuing.

**** End of Exhibit F ****

EXHIBIT G
Scheduling Coordinator Services

This Exhibit G is only applicable when Buyer is Scheduling Coordinator.

1. Designation of Buyer as Scheduling Coordinator.

   (a) At least 30 days before the Term Start Date, Seller shall take all actions and execute and deliver to Buyer and the CAISO all documents necessary to authorize or designate Buyer as Scheduling Coordinator with the CAISO effective as of the Term Start Date.

   (b) During the Term, unless Seller terminates Buyer as Scheduling Coordinator in accordance with Section 7 of this Exhibit G, Seller may 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, and Seller may not revoke Buyer's authorization to act as Scheduling Coordinator unless agreed to by Buyer.

   (c) Buyer shall submit bids and schedules to the CAISO in accordance with the CAISO Tariff and Seller's QF PGA or PGA, as applicable.

   (d) Buyer shall submit all required notices and updates regarding each Generating Unit's or the Generating Facility's status, as applicable, to the CAISO in accordance with the CAISO procedures.

   (e) Seller is not entitled to any Monthly Contract Payment until Buyer is fully authorized as Scheduling Coordinator for the Generating Facility; *provided, however*, that Buyer may not take, or not refrain from taking, any action if the result would be to delay such authorization.

2. Buyer's Scheduling Responsibilities. Pursuant to the CAISO Tariff, Buyer shall be responsible for the following:

   (a) Submitting all notices and updates required under the CAISO Tariff and Applicable Laws regarding each Generating Unit's or the Generating Facility's status, as applicable, to the CAISO;

   (b) [Intentionally omitted.]

   (c) Submitting the adjusted Forecasts to the CAISO as Scheduling Coordinator Schedules (as defined in the CAISO Tariff); and

   (d) Receiving notification of the final schedules from the CAISO.

3. [Intentionally omitted.]

4. Scheduling Fees. In accordance with Section 4.02, Buyer shall invoice to Seller and Seller shall pay to Buyer the following Scheduling Fees:

   (a) SC Set-Up Fee. The SC Set-Up Fee is equal to the costs Buyer incurs as a result of the Generating Units or the Generating Facility registration, as applicable, as well as installation, configuration, and testing of all equipment and software necessary, in Buyer's sole discretion, to Schedule the Generating Unit or the Generating Facility, as applicable, in accordance with the CAISO Tariff. Buyer's invoice to Seller shall provide a detailed accounting of all costs and charges encompassed in the SC Set-Up Fee, including separate line items for registration charges, equipment costs, software costs, and labor costs (including hourly rate if applicable) itemized for registration, equipment installation, configuration, testing and software related charges. Buyer estimates that the SC Set-up Fee for this Agreement will equal $[Amount].

   (b) Monthly Scheduling Fee. The Monthly Scheduling Fee will be as forth in the following table.

Contract Capacity (kW)	**Monthly Scheduling Fee**
Less than 10,000	$2,500
10,000 – 20,000	$5,000

5. CAISO Settlements. As Scheduling Coordinator, Buyer shall be responsible for all settlement functions with the CAISO related to the Generating Units or the Generating Facility, as applicable. Seller shall cooperate with Buyer in Buyer's performance of any settlement functions, and Seller shall promptly deliver to Buyer, or provide Buyer access to, all Generating Unit or the Generating Facility, as applicable, data necessary for CAISO settlements and any correspondence or communications with CAISO related to the Generating Units or the Generating Facility, as applicable, including any invoices or settlement data, in the mutually agreed upon format reasonably requested by Buyer.

   Seller shall pay the amount of all CAISO Charges on or before the later of the 20th day of each month. If Seller fails to pay a CAISO Charge within such timeframe, Buyer may offset any amounts owing to it for such CAISO Charge as set forth in Section 4.02.

6. Disputes and Adjustments of CAISO Charges. The Parties agree that all CAISO Charges are subject to the CAISO Tariff and may be adjusted by the CAISO, or disputed by Buyer, as Scheduling Coordinator, in accordance with the CAISO Tariff. The Parties agree that all CAISO Charges are subject to dispute between the Parties in accordance with this Agreement. Notwithstanding anything to the contrary contained in this Agreement, the Parties agree that the obligations under this Exhibit G with respect to the payment of CAISO Charges, or the adjustment of such CAISO Charges, shall survive the

expiration or termination of this Agreement for a period of 365 days beyond the time period which CAISO may adjust, modify or change any previously issued invoice, or any charges or revenues set forth on such invoice pursuant to the CAISO Tariff.

7. Terminating Buyer's Designation as Scheduling Coordinator.

(a) Seller may terminate Buyer as Scheduling Coordinator:

(i) In accordance with Section 7(b) of this Exhibit G; or

(ii) If Buyer materially fails to fulfill its obligations as Scheduling Coordinator and:

(1) Seller provides advance Notice to Buyer setting forth in reasonable detail the nature of such failure and such failure is not remedied within 30 days after such Notice; *provided, however*, that if such failure is not reasonably capable of being remedied within such 30-day period, Buyer shall have such additional time (not to exceed 120 days) as is reasonably necessary to remedy such failure, so long as Buyer promptly commences and diligently pursues such remedy;

(2) Seller (A) submits to the CAISO a designation of a new Scheduling Coordinator to replace Buyer effective as of the date of Buyer's termination as Scheduling Coordinator, and (B) causes its newly designated Scheduling Coordinator to submit a letter to the CAISO accepting the designation; and

(3) The Parties will take any other action necessary to terminate the designation of Buyer as Scheduling Coordinator, including amending this Agreement; or

(iii) [Intentionally omitted.]

(b) At least 30 days before the expiration of the Term or as soon as an Early Termination Date is declared (regardless of which Party declared it), the Parties will take all actions necessary to terminate the designation of Buyer as Scheduling Coordinator as of 11:59 p.m. PPT on the Term End Date ("SC Replacement Date"). Such actions include the following:

(i) Seller shall:

(1) Submit to the CAISO a designation of a new Scheduling Coordinator to replace Buyer effective as of the SC Replacement Date; and

(2) Cause its newly designated Scheduling Coordinator to submit a letter to the CAISO accepting the designation; and

(ii) Buyer shall submit a letter to the CAISO resigning as Scheduling Coordinator effective as of the SC Replacement Date.

(c) Seller bears sole responsibility for locating, selecting, and reaching agreement on terms with any replacement Scheduling Coordinator.

**** End of Exhibit G ****

EXHIBIT H
Milestone Progress Reporting Form

1. Introduction. This Exhibit H is only applicable if the Generating Facility is a New Qualifying Facility.

   Seller shall prepare a written milestone progress report as set forth in Section 3.11 on its progress relative to the:

   (a) Installation of the CAISO-Approved Meters and Telemetry System;

   (b) Installation of the Telemetry System as required by the CAISO Tariff; and

   (c) Work on other agreements with the CAISO and the Transmission Provider.

2. Format. The report must be sent via e-mail in the form of a single Adobe Acrobat file or facsimile to Buyer's Contract Administrator, as noted in Exhibit N, on the fifth Business Day of each month. Each such milestone progress report must include the following items:

   (a) Cover page;

   (b) Brief Generating Facility description;

   (c) Site plan of the Generation Facility;

   (d) Description of any planned changes to the Generating Facility and Site Description in Exhibit B;

   (e) Bar chart schedule showing progress on achieving the Milestone Schedule;

   (f) PERT or GANT chart showing critical path schedule of major items and activities;

   (g) Summary of activities during the previous month;

   (h) Forecast of activities scheduled for the current month;

   (i) Written description about the progress relative to the Milestone Schedule;

   (j) List of issues that could potentially impact the Milestone Schedule;

   (k) Enumeration and schedule of any support or actions requested of Buyer;

   (l) Progress and schedule of all material agreements, contracts, Permits, approvals, technical studies, financing agreements and major equipment purchase orders showing the start dates, completion dates, and completion percentages; and

   (m) List of items required under Section 3.11.

**** End of Exhibit H ****

EXHIBIT I
Seller's Forecasting Requirements

1. General Requirements. The Parties shall abide by the Forecasting 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 the CAISO Tariff;

   (b) Accommodate changes to their respective generation technology and organizational structure; and

   (c) Address changes in the Operating and Scheduling procedures of Seller, Buyer and the CAISO, including automated Forecast and outage submissions.

2. Seller's Forecasting Submittal Requirements for all Generating Facilities.

   (a) 30-Day Forecast.

   No later than 30 days before the Term Start Date (or, in the case of a New Qualifying Facility no later than 30 days before the commencement of Parallel Operation), Seller shall provide Buyer with a Forecast for the 30-day period commencing on the start of the Term (or, if applicable, Parallel Operation) using the Web Client.

   In the case of a New Qualifying Facility, if, after submitting the Forecast pursuant to this Section 2(a), Seller learns that Parallel Operation will occur on a date and time other than that reflected on the Forecast, Seller shall provide an updated Forecast reflecting the new Parallel Operation date at the earliest practicable time but no later than 5:00 p.m. PPT on the Wednesday before the new Parallel Operation date, if Seller has learned of the new Parallel Operation date by that time, but in no event less than three Business Days before the new Parallel Operation date.

   If the Web Client becomes unavailable, Seller shall provide Buyer with the Forecast by e-mail or by telephoning Buyer's Generation Operations Center, at the e-mail address or telephone number(s) listed in Exhibit N.

   The Forecast, and any updated Forecasts provided pursuant to this Section 2, shall:

   (i) Reflect the Expected Energy at the CAISO-Approved Meter; and

   (ii) Limit hour-to-hour Forecast changes to no less than 250 kWh 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.

(b) Weekly Update to 30-Day Forecast. Commencing on or before 5:00 p.m. PPT of the Wednesday before the first week covered by the Forecast provided pursuant to Section 2(a) of this Exhibit I, and on or before 5:00 p.m. PPT every Wednesday thereafter until the Term End Date, Seller shall update the Forecast for the 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 Buyer with the weekly Forecast update by e-mailing or telephoning Buyer's Generation Operations Center, at the e-mail address or telephone number(s) listed in Exhibit N.

(c) Day-Ahead Forecast.

(i) If the Generating Facility is not PIRP certified: Seller or Seller's agent shall provide a binding Forecast of the Generating Facility's hourly energy deliveries for the following day (the "Day-Ahead Forecast") to the Scheduling Coordinator via Buyer's Web Client, as set forth in this Exhibit I, for each day, by the Day-Ahead Scheduling Deadline. Each Day-Ahead Forecast shall clearly identify, for each hour, Seller's forecast of all amounts of energy forecasted to be generated by the Generating Facility and measured at the CAISO-Approved Meter pursuant to this Agreement. If the Day-Ahead Forecast changes by at least one (1) MWh after the Day-Ahead Scheduling Deadline, Seller shall send a revised notice to Buyer's Web Client as set forth in this Exhibit I.

If Seller fails to provide Buyer with a Day-Ahead Forecast as required herein, then, until Seller provides such Day-Ahead Forecast, Buyer may rely on the most recent Day-Ahead Forecast submitted by Seller to Buyer.

(ii) If the Generating Facility is PIRP certified: Seller's Day-Ahead Forecast shall be equal to the forecast of the energy to be produced by the Project prepared by the CAISO or its agent in accordance with the PIRP Forecasting Program and communicated to the Scheduling Coordinator, which forecast is the last such forecast prepared by the CAISO that does not reflect curtailed production as a result of Economic Dispatch Down periods. If such a forecast is not available, Seller shall be required to comply with Section 2(c)(i) of this Exhibit I, whether or not the Generating Facility is PIRP certified.

(d) Further Update to Day-Ahead Forecast. As soon as reasonably practicable and commensurate with Seller's knowledge, Seller shall provide Forecast updates related to Buyer's Scheduled daily, hourly and real-time deliveries from the Generating Facility for any cause, including changes in Site ambient conditions or a Forced Outage, any of which results in a material change to the Generating Facility's deliveries (whether in part or in whole). This updated Forecast pursuant to this Exhibit I must be submitted to Buyer via the Web Client by no later than

the Hour-Ahead Scheduling Deadline, if the change is known to Seller at that time.

Seller's updated Forecast must contain the following information:

a. The beginning date and time of the event resulting in the availability of the Generating Facility and expected electric energy production change;

b. The expected ending date and time of the event:

c. The expected electric energy production, in MWh; and

d. Any other information required by the CAISO as communicated to Seller by Buyer.

**** End of Exhibit I ****

EXHIBIT J
CAISO Charges

If at any time after the Term Start Date Buyer is not Scheduling Coordinator for the Generating Facility, then Buyer will not be responsible for any CAISO Charges. If at any time after the Term Start Date Buyer is Scheduling Coordinator for the Generating Facility, then, other than with respect to Availability Incentive Payments and Non-Availability Charges (allocation of which is set forth in Section 3.22 of this Agreement), Buyer shall pay all CAISO Charges and receive all CAISO Revenues; *provided, however*, if at any time after the Term Start Date:

1. The CAISO implements or has implemented any sanction or penalty related to Scheduling, outage reporting or generator Operation, and any such sanctions or penalties are imposed on the Generating Facility or to Buyer as Scheduling Coordinator for the Generating Facility due solely to the actions or inactions of Seller, then such sanctions or penalties will be Seller's responsibility;

2. Seller or any third party dispatches any portion of the Contract Capacity for the benefit of any party other than Buyer or a Site host in respect of the Host Site, then Seller shall indemnify, defend, and hold Buyer harmless against any CAISO Charges (except to the extent such CAISO Charges result from the fault or negligence of Buyer in its role as Scheduling Coordinator);

3. Seller does not comply with:

   (a) The requirements set forth in Section 3.15; or

   (b) Seller's obligation associated with any CAISO or Transmission Provider notice or instruction (as may be communicated by Buyer as Scheduling Coordinator) to (i) increase output to the Contract Capacity during a System Emergency or an Emergency Condition, or (ii) reschedule a Planned Outage set to occur during a System Emergency or an Emergency Condition, then

   Seller shall indemnify, defend, and hold Buyer harmless against any CAISO Charges associated with any failure set forth in Sections 3(a) or 3(b) of this Exhibit J (except to the extent such CAISO Charges result from the fault or negligence of Buyer in its role as Scheduling Coordinator); or

4. If the Generating Facility is eligible to be PIRP certified, but is not so certified as a PIRP resource for any reason, then Seller shall indemnify, defend, and hold Buyer harmless against all CAISO Charges associated with the electric energy generated and delivered from the Generating Facility.

If any of Sections 1 through 4 of this Exhibit J apply and the Generating Facility is subject to an Uninstructed Deviation Penalty, Seller will not be required to pay the SDD Adjustment and, instead, shall be responsible for all applicable Uninstructed Deviation Penalty and imbalance energy charges for the Generating Facility.

**** End of Exhibit J ****

EXHIBIT K
Scheduling and Delivery Deviation Adjustments

If Buyer is Scheduling Coordinator for the Generating Facility and if the Generating Facility is not PIRP certified, then Seller or Buyer, as the case may be, shall be responsible for the following SDD Adjustments with respect to the Generating Facility:

1. SDD Energy Adjustment. A SDD Adjustment will be calculated for each Settlement Interval in a month if the Metered Amounts is either (a) less than the Performance Tolerance Band Lower Limit in any Settlement Interval or (b) greater than the Performance Tolerance Band Upper Limit in any Settlement Interval. When the SDD Adjustment is negative, Seller shall make a payment to Buyer and when the SDD Adjustment is positive, Seller shall receive a credit from Buyer. The SDD Adjustment is calculated as follows:

If A < D, then SDD Adjustment = (D – A) x (EP – P)

or

If A > E, then SDD Adjustment = (A – E) x (P – EP)

Otherwise, the SDD Adjustment = 0

where:

A = Metered Amounts for the Settlement Interval, which Metered Amounts shall be capped based upon the Contract Capacity;

B = Seller's Day-Ahead Forecast based on the hourly forecasts made pursuant to Exhibit I corresponding to the Settlement Interval;

C = Performance Tolerance Band = One (1) MWh divided by the number of Settlement Intervals in such hour;

D = Performance Tolerance Band Lower Limit = (B – C);

E = Performance Tolerance Band Upper Limit = (B + C);

EP = [Day-Ahead Price applicable to the Settlement Interval, as specified in Section 2 of Exhibit D]; and

{Drafting Note: Use this formulation if Exhibit D (As-Delivered Option) is chosen.}

[Contract TOD Energy Price applicable to the Settlement Interval, as specified in Section 2 of Exhibit D]; and

{Drafting Note: Use this formulation if Exhibit D (As-Executed Option) is chosen.}

P = Real-Time Price for the Generator's PNode as published by the CAISO on OASIS for the Settlement Interval.

2. SDD Administrative Charge. Seller shall make a payment to Buyer (the "SDD Administrative Charge") for each Settlement Interval in a month if Metered Amounts (i) exceeds the Performance Tolerance Band Upper Limit or (ii) is less than the Performance Tolerance Band Lower Limit, in any Settlement Interval. The SDD Administrative Charge is calculated as follows:

If A > (B + C) or A < (B – C), then:

SDD Administrative Charge = (Absolute Value (B – A) – C) x Uninstructed Deviation GMC Rate.

Otherwise, the SDD Administrative Charge = 0.

**** End of Exhibit K ****

EXHIBIT L
Physical Trade Settlement Amount

This Exhibit L is only applicable when Buyer is not Scheduling Coordinator.

1. Physical Trades Cleared in the IFM. The CAISO Revenue credited to Buyer's account by CAISO as a result of a Physical Trade having cleared in the IFM shall be for Buyer's account.

2. Physical Trades not Cleared in the IFM. With respect to each calendar month "m", as soon as practicable after the end of such month, Buyer shall calculate the Physical Trade Settlement Amount ("$PTSA_i$") for each hour as follows:

$$PTSA_i = CPT_i \times (CPTP_i - PNode_i)$$

Where:

i	=	an hour within month "m"
CPT	=	Converted Physical Trade, in MWh
CPTP	=	Converted Physical Trade Price, and
PNode	=	the Generating Facility's PNode price, in dollars per MWh.

If the $PTSA_i$ is positive *and* Seller submitted the original Physical Trade in accordance with Section 3.14(s)(ii), then Buyer shall owe Seller the $PTSA_m$ for month m. In any event the $PTSA_i$ is negative, however, then Seller shall owe Buyer the $PTSA_i$.

**** End of Exhibit L ****

EXHIBIT M
SC Trade Settlement Amount

This Exhibit M is only applicable when Buyer is not Scheduling Coordinator.

If, in any Settlement Interval, a Generating Facility's Scheduled Amount differs from the Generating Facility's Metered Amounts by more than the SC Trade Tolerance Band, then Seller shall be subject to a payment adjustment calculated by Buyer in accordance with the procedures and formulas set forth below.

1. Under-Scheduling Adjustment.

If during any Settlement Interval the Scheduled Amount plus the SC Trade Tolerance Band is less than the Metered Amounts, and the Real-Time Price is greater than the Day-Ahead Price payable during the Settlement Interval, then Seller's monthly payment amount shall be reduced by each Under-Scheduling Settlement Interval Adjustment Amount calculated by the following formula:

UNDER-SCHEDULING SETTLEMENT INTERVAL ADJUSTMENT AMOUNT =

[A – B] x [D – C]

Where A = The Metered Amounts in the Settlement Interval being calculated.

B = The Scheduled Amount in the Settlement Interval being calculated.

C = Day-Ahead Price for the Settlement Interval being calculated in $/kWh.

D = Real-Time Price for the Settlement Interval being calculated in $/kWh.

No under-scheduling adjustment shall be assessed against Seller for a Settlement Interval in which the Scheduled Amount plus the SC Trade Tolerance Band is less than the Metered Amounts if, during such Settlement Interval, the Real-Time Price is equal to or less than the Day-Ahead Price payable during the Settlement Interval.

2. Over-Scheduling Adjustment.

If during any Settlement Interval the Scheduled Amount is greater than the SC Trade Tolerance Band plus the Metered Amounts, and the Real-Time Price is less than the Day-Ahead Price payable during the Settlement Interval;

Then Seller's monthly payment amount shall be reduced by each Over-Scheduling Settlement Interval Adjustment Amount calculated by the following formula:

OVER-SCHEDULING SETTLEMENT INTERVAL ADJUSTMENT AMOUNT =

[B – A] x [C – D]

Where A = The Metered Amounts in the Settlement Interval being calculated.

B = The Scheduled Amount in the Settlement Interval being calculated.

C = Day-Ahead Price for the Settlement Interval being calculated in $/kWh.

D = Real-Time Price for the Settlement Interval being calculated in $/kWh.

No over-scheduling adjustment shall be assessed against Seller for a Settlement Interval in which the Scheduled Amount is greater than the SC Trade Tolerance Band plus the Metered Amounts if, during such Settlement Interval, the Real-Time Price is greater than or equal to the Day-Ahead Price payable during the Settlement Interval.

3. Negative Day-Ahead Price Adjustment.

If during any Settlement Interval the Day-Ahead Price is negative, then Seller's monthly payment amount shall be reduced by the following formula (the calculations in Sections 1 and 2 of this Exhibit M will not apply when the Day-Ahead Price is negative):

NEGATIVE DAY-AHEAD PRICE ADJUSTMENT AMOUNT = B x C

Where B = The Scheduled Amount in the Settlement Interval being calculated.

C = The absolute value of the Day-Ahead Price for the Scheduling Interval being calculated in $/kWh.

4. Negative Real-Time Price Adjustment.

If during any Settlement Interval the Real-Time Price is negative and the Scheduled Amount is greater than zero, then Seller's monthly payment amount shall be adjusted by each Negative Real-Time Price Interval Adjustment Amount calculated by the following formula (the calculations in Sections 1 and 2 of this Exhibit M will not apply when the Real-Time Price is negative):

NEGATIVE REAL-TIME PRICE INTERVAL ADJUSTMENT AMOUNT =

[B – A] x D – [A x C]

Where A = The Metered Amounts in the Settlement Interval being calculated.

B = The Scheduled Amount in the Settlement Interval being calculated.

C = The absolute value of the Real-Time Price for the Settlement Interval being calculated in $/kWh.

D == The Contract TOD Energy Price in $/kWh for the applicable month for contracts using the At-Execution price and the applicable Day-Ahead Price in $/kWh for contracts using the As-Delivered price.

If the foregoing Negative Real-Time Price Interval Adjustment Amount is positive, then Seller shall be paid the result of the immediately preceding formula and if the Negative Real-Time Price Interval Adjustment Amount is negative, then Seller's monthly payment shall be reduced by the result of the immediately preceding formula.

**** End of Exhibit M ****

EXHIBIT N
Notice List

Seller's Name: [SELLER'S NAME]	Buyer's Name: [BUYER'S NAME]
All Notices are deemed provided in accordance with Section 9.08 if made to the address or e-mail addresses provided below:	All Notices are deemed provided in accordance with Section 9.08 if made to the address or e-mail addresses provided below:
Contract Sponsor: Attn: Street: City: Phone: E-mail:	Contract Sponsor: Attn: Street: City: Phone: E-mail:
Reference Numbers: Duns: Federal Tax ID Number:	Reference Numbers: Duns: Federal Tax ID Number:
Contract Administration: Attn: Phone: E-mail:	Contract Administration: Attn: Phone: E-mail:
Forecasting: Attn: [Control Room] Phone: E-mail:	Forecasting: Attn: Phone: E-mail:
Day-Ahead Forecasting: Phone: E-mail:	Day-Ahead Forecasting: Phone: E-mail:
Real-Time Forecasting: Phone: E-mail:	Real-Time Forecasting: Phone: E-mail:
Payment Statements: Attn: Phone: E-mail:	Payment Statements: Attn: Phone: E-mail:

CAISO Charges and CAISO Sanctions: Attn: Phone: E-mail:	CAISO Charges and CAISO Sanctions: Attn: Phone: E-mail:
Payments: Attn: Phone: E-mail:	Payments: Attn: Phone: E-mail:
Economic Dispatch Down: Attn: Phone: E-mail:	Economic Dispatch Down: Attn: Phone: E-mail:
Wire Transfer: BNK: ACCT Title: ABA: ACCT:	Wire Transfer: BNK: ACCT Title: ABA: ACCT:
Credit: Attn: Phone: E-mail:	Credit: Attn: Phone: E-mail:
With additional Notices of an Event of Default or Potential Event of Default to: Attn: Phone: E-mail:	With additional Notices of an Event of Default or Potential Event of Default to: Attn: Phone: E-mail:
Guarantor: Attn: Phone: E-mail:	N/A
Lender: Attn: Phone: E-mail:	N/A

**** End of Exhibit N ****

EXHIBIT O
Form of Guaranty Agreement

1. Guaranty. For valuable consideration, _____*[Guarantor's legal name]*___, _____*[legal status]*_ ("Guarantor") guarantees payment to _____*[Buyer's legal name]*_, a California corporation ("Beneficiary"), its successors and assigns, of all amounts owed to Beneficiary by _____*[Seller's legal name]*_, _____*[legal status]*_ ("Principal") under that certain Power Purchase and Sale Agreement between Beneficiary and Principal dated _____*[date]*_, as amended from time to time ("Agreement") (said amounts are hereinafter referred to as the "Obligations").

   Initially capitalized words that are used but not otherwise defined in this agreement ("Guaranty") shall have the meanings given them in the Agreement.

   Upon the failure or refusal by Principal to pay all or any portion of the Obligations, the Beneficiary may make a demand upon the Guarantor.

   Such demand shall be in writing and shall state the amount Principal has failed to pay and an explanation of why such payment is due, that all cure periods have expired, and with a specific statement that Beneficiary is calling upon Guarantor to pay under this Guaranty.

   Guarantor shall promptly, but in no event less than ten Business Days following demand by Beneficiary, pay such Obligations in immediately available funds.

   The obligations of Guarantor hereunder is not subject to any counterclaim, setoff, withholding, or deduction unless required by applicable law.

   A payment demand satisfying the foregoing requirements shall be deemed sufficient notice to Guarantor that it must pay the Obligations.

2. Guaranty Limit. Subject to Paragraph 13, the liability of Guarantor hereunder may not exceed $_____ in the aggregate, which amount shall include all interest that has accrued on any amount owed hereunder.

3. Guaranty Absolute. Guarantor agrees that its obligations under this Guaranty are irrevocable, absolute, independent and unconditional and is not affected by any circumstance which constitutes a legal or equitable discharge of a guarantor. In furtherance of the foregoing and without limiting the generality thereof, Guarantor agrees as follows:

   (a) The liability of Guarantor under this Guaranty is a continuing guaranty of payment and not of collectability, and is not conditional or contingent upon the genuineness, validity, regularity or enforceability of the Agreement or the pursuit by Beneficiary of any remedies which it now has or may hereafter have under the Agreement;

(b) Beneficiary may enforce this Guaranty upon the occurrence of a default by Principal under the Agreement notwithstanding the existence of a dispute between Beneficiary and Principal with respect to the existence of the default;

(c) The obligations of Guarantor under this Guaranty are independent of the obligations of Principal under the Agreement and a separate action or actions may be brought and prosecuted against Guarantor whether or not any action is brought against Principal or any other guarantors and whether or not Principal is joined in any such action or actions;

(d) Beneficiary may, at its election, foreclose on any security held by Beneficiary, or exercise any other right or remedy available to Beneficiary without affecting or impairing in any way the liability of Guarantor under this Guaranty, except to the extent the amount(s) owed to Beneficiary by Principal have been paid; and

(e) Guarantor shall continue to be liable under this Guaranty and the provisions hereof shall remain in full force and effect notwithstanding:

(i) Any modification, amendment, supplement, extension, agreement or stipulation between Principal and Beneficiary or their respective successors and assigns, with respect to the Agreement or the obligations encompassed thereby;

(ii) Beneficiary's waiver of or failure to enforce any of the terms, covenants or conditions contained in the Agreement;

(iii) Any release of Principal or any other guarantor from any liability with respect to the Obligations or any portion thereof;

(iv) Any release, compromise or subordination of any real or personal property then held by Beneficiary as security for the performance of the Obligations or any portion thereof, or any substitution with respect thereto;

(v) Without in any way limiting the generality of the foregoing, if Beneficiary is awarded a judgment in any suit brought to enforce a portion of the Obligations, such judgment is not deemed to release Guarantor from its covenant to pay that portion of the Obligations which is not the subject of such suit;

(vi) Beneficiary's acceptance and/or enforcement of, or failure to enforce, any other guaranties or any portion of this Guaranty;

(vii) Beneficiary's exercise of any other rights available to it under the Agreement;

(viii) Beneficiary's consent to the change, reorganization or termination of the corporate structure or existence of the Principal and to any corresponding restructuring of the Obligations;

(ix) Any failure to perfect or continue perfection of a security interest in any collateral that secures the Obligations;

(x) [Intentionally omitted;] and

(xi) Any other act or thing or omission, or delay to do any other act or thing that might in any manner or to any extent vary the risk of Guarantor as an obligor with respect to the Obligations.

(f) Guarantor agrees that upon a demand for payment under this Guaranty in accordance with Section 1 hereof, Guarantor shall pay such Obligations as are included in such demand notwithstanding any defenses, setoffs or counterclaims that Principal may allege or assert against Beneficiary with respect to the Obligations, including without limitation statute of frauds and accord and satisfaction; provided that Guarantor reserves the right to assert any defenses, setoffs or counterclaims that Principal may allege or assert against Beneficiary (except for such defenses, setoffs or counterclaims as are expressly waived under other provisions of this Guaranty) in a subsequent action for recoupment, restitution or reimbursement.

4. Termination; Reinstatement.

(a) The term of this Guaranty is continuous until the Term End Date, *provided however*, the termination of this Guaranty shall not release Guarantor from liability for any Obligations arising prior to the Term End Date.

(b) This Guaranty shall be reinstated if at any time following the termination of this Guaranty, any payment by Guarantor under this Guaranty or pursuant hereto is rescinded or must otherwise be returned by the Beneficiary or other person upon the insolvency, bankruptcy, reorganization, dissolution or liquidation of Principal, Guarantor or otherwise, and is so rescinded or returned to the party or parties making such payment, all as though such payment had not been made.

If all or any portion of the Obligations are paid by Principal, the obligations of Guarantor hereunder shall continue and remain in full force and effect or be reinstated, as the case may be, in the event that all or any part of such payment(s) are rescinded or recovered directly or indirectly from Beneficiary as a preference, fraudulent transfer or otherwise, and any such payments which are so rescinded or recovered shall constitute Obligations for all purposes under this Guaranty.

5. Bankruptcy. So long as any Obligations remain outstanding, Guarantor may not, without the prior written consent of Beneficiary, commence or join with any other person in commencing any bankruptcy, reorganization or insolvency proceedings of or against Principal. The obligations of Guarantor under this Guaranty may not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of the Principal or by any defense which Principal may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding.

6. Subrogation. Guarantor shall be subrogated to all rights of the Beneficiary against Principal with respect to any amounts paid by the Guarantor pursuant to the Guaranty, provided that Guarantor postpones the exercise of such rights until all Obligations have been irrevocably paid in full to the Beneficiary.

   If any amount is paid to Guarantor on account of such subrogation, reimbursement, contribution or indemnity rights at any time when all the Obligations guaranteed hereunder have not been indefeasibly paid in full, Guarantor shall hold such amount in trust for the benefit of Beneficiary (provided that no fiduciary duty shall be deemed to arise in connection herewith) and shall promptly pay such amount to Beneficiary.

7. [Intentionally omitted.]

8. Waivers of Guarantor.

   (a) [Intentionally omitted.]

   (b) Guarantor waives any right to require Beneficiary to proceed against or exhaust any security held from Principal or any other party acting under a separate agreement.

   (c) Guarantor waives all of the rights and defenses described in subdivision (a) of Section 2856 of the California Civil Code, including any rights and defenses that are or may become available to the Guarantor by reason of Sections 2787 to 2855 thereof, inclusive. Without limiting the generality of the foregoing waiver:

      (i) The Guarantor waives all rights and defenses that the Guarantor may have because the Principal's Obligations are secured by real property.

         This means, among other things:

         a. The Beneficiary may collect from the Guarantor without first foreclosing on any real or personal property collateral pledged by the Principal.

b. If the Beneficiary forecloses on any real property collateral pledged by the Principal:

(1) The amount of the Obligation may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price.

(2) The Beneficiary may collect from the Guarantor even if the Beneficiary, by foreclosing on the real property collateral, has destroyed any right the Guarantor may have to collect from the Principal.

This is an unconditional and irrevocable waiver of any rights and defenses the Guarantor may have because the Principal's Obligations are secured by real property. These rights and defenses include, but are not limited to, any rights or defenses based upon Section 580a, 580b, 580d, or 726 of the California Code of Civil Procedure.

(ii) The Guarantor waives all rights and defenses arising out of an election of remedies by the Principal, even though that election of remedies, such as a nonjudicial foreclosure with respect to security for an Obligation, has destroyed the Guarantor's rights of subrogation and reimbursement against the Principal by the operation of Section 580d of the Code of Civil Procedure or otherwise.

(d) Guarantor assumes all responsibility for keeping itself informed of Principal's financial condition and all other factors affecting the risks and liability assumed by Guarantor hereunder, and Beneficiary shall have no duty to advise Guarantor of information known to it regarding such risks.

(e) Guarantor waives any defense arising by reason of the incapacity, lack of authority or any disability of the Principal, failure of consideration or any defense based on or arising out of the lack of validity or enforceability of the Obligations;

(f) [Intentionally omitted]

(g) Guarantor waives its right to raise any defenses based upon promptness, diligence, and any requirement that Beneficiary protect, secure, perfect or insure any security interest or lien or any property subject thereto;

(h) Guarantor waives any other circumstances that limit the liability of or exonerate guarantors generally or provide any legal or equitable discharge of Guarantor's obligations hereunder;

(i) Other than demand for payment, the Guarantor expressly waives all notices between the Beneficiary and the Principal including without limitation all notices with respect to the Agreement and this Guaranty, notice of acceptance of this Guaranty, any notice of credits extended and sales made by the Beneficiary to Principal, any information regarding Principal's financial condition, and all other notices whatsoever; and

(j) Guarantor waives filing of claims with a court in the event of the insolvency or bankruptcy of the Principal.

9. No Waiver of Rights by Beneficiary. No right or power of Beneficiary under this Guaranty shall be deemed to have been waived by any act or conduct on the part of Beneficiary, or by any neglect to exercise a right or power, or by any delay in doing so, and every right or power of Beneficiary hereunder shall continue in full force and effect until specifically waived or released in a written document executed by Beneficiary.

10. Assignment, Successors and Assigns. This Guaranty shall be binding upon Guarantor, its successors and assigns, and shall inure to the benefit of, and be enforceable by, the Beneficiary and its successors and assigns. The Beneficiary shall have the right to assign this Guaranty to any person or entity without the prior consent of the Guarantor; *provided, however*, that no such assignment shall be binding upon the Guarantor until it receives written notice of such assignment from the Beneficiary.

The Guarantor shall have no right to assign this Guaranty or its obligations hereunder without the prior written consent of the Beneficiary.

11. Representations of Guarantor. Guarantor represents and warrants that:

(a) It is a corporation duly organized, validly existing and in good standing in the jurisdiction of its formation and has full power and authority to execute, deliver and perform this Guaranty;

(b) It has taken all necessary corporate actions to execute, deliver and perform this Guaranty;

(c) This Guaranty constitutes the legal, valid and binding obligation of Guarantor, enforceable in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws effecting creditors' rights generally and to general equitable principles;

(d) Execution, delivery and performance by Guarantor of this Guaranty does not conflict with, violate or create a default under any of its governing documents, any agreement or instruments to which it is a party or to which any of its assets is subject or any applicable law, rule, regulation, order or judgment of any Governmental Authority; and

(e) All consents, approvals and authorizations of governmental authorities required in connection with Guarantor's execution, delivery and performance of this Guaranty have been duly and validly obtained and remain in full force and effect.

12. Financial Statements. If requested by Beneficiary and if Guarantor is otherwise required to prepare the following, Guarantor shall deliver financial statements as describe below, which in all cases shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles:

(a) Within one hundred-twenty (120) days following the end of each fiscal year that any Obligations are outstanding, a copy of its annual report containing its 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

(b) Within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year that any Obligations are outstanding, a copy of its quarterly report containing its 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 and: (i) certified in accordance with all applicable laws and regulations, including without limitation all applicable Securities and Exchange Commission ("SEC") rules and regulations, if Guarantor 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 Guarantor is not an SEC reporting company.

(c) For the purposes of the requirement in this Paragraph 12, if Guarantor's financial statements are publicly available electronically on the website of Guarantor or the SEC, then Guarantor shall be deemed to have met this requirement.

13. Attorneys' Fees. In addition to the amounts for which payment is guaranteed hereunder, Guarantor agrees to pay reasonable attorneys' fees and all other reasonable costs and expenses incurred by Beneficiary in enforcing this Guaranty or in any action or proceeding arising out of or relating to this Guaranty. Any costs for which Guarantor becomes liable pursuant to this Paragraph 13 is not subject to, and does not count toward, the Guaranty limit set forth in Paragraph 2 above.

14. Governing Law. This Guaranty is made under and shall be governed in all respects by the laws of the State of California, without regard to conflict of law principles. If any provision of this Guaranty is held invalid under the laws of California, this Guaranty shall be construed as though the invalid provision has been deleted, and the rights and obligations of the parties shall be construed accordingly.

15. Construction. All parties to this Guaranty are represented by legal counsel. The terms of this Guaranty and the language used in this Guaranty shall be deemed to be the terms and language chosen by the parties hereto to express their mutual intent. This Guaranty shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument or any portion thereof to be drafted, or in favor of the party receiving a particular benefit under this Guaranty. No rule of strict construction will be applied against any party.

16. Amendment; Severability. Neither this Guaranty nor any of the terms hereof may be terminated, amended, supplemented or modified, except by an instrument in writing executed by an authorized representative of each of Guarantor and Beneficiary.

    If any provision in or obligation under this Guaranty is 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, is not in any way be affected or impaired thereby.

17. Third Party Rights. This Guaranty may not be construed to create any rights in any parties other than Guarantor and Beneficiary and their respective successors and permitted assigns.

18. Notices. Any demand for payment, notice, request, instruction, correspondence or other document to be given hereunder by any party to another shall be made by facsimile to the person and at the address for notices specified below.

Beneficiary:	*[Buyer]* *[Street]* *[City, State Zip]* Attn: Phone: Facsimile:
with a copy to:	*[Name]* *[Street]* *[City, State Zip]* Attn: Phone: Facsimile:
Guarantor:	*[Guarantor]* *[Street]* *[City, State Zip]* Attn: Phone: Facsimile:

Principal: *[Principal]*
[Street]
[City, State Zip]
Attn:
Phone:
Facsimile:

Such notice shall be effective upon confirmation of the actual receipt if received during the recipient's normal business hours, or at the beginning of the recipient's next Business Day after receipt if receipt is outside of the recipient's normal business hours. Either party may periodically change any address to which notice is to be given it by providing notice of such change as provided herein.

[signature page follows]

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of _____, ____.

_____*[legal name]*

By: _____
Name: _____
Title: _____

*** *End of Exhibit O* ***

EXHIBIT P
Form of Letter of Credit

IRREVOCABLE NONTRANSFERABLE STANDBY
LETTER OF CREDIT

Reference Number:

Transaction Date:

BENEFICIARY:

_____
_____
_____
_____

Ladies and Gentlemen:

_____ (the "Bank") establishes this Irrevocable Nontransferable Standby Letter of Credit ("Letter of Credit") in favor of _____, a California corporation (the "Beneficiary"), for the account of _____, a _____ corporation, also known as ID# ___ (the "Applicant"), for the amount of XXX AND XX/100 Dollars ($_____) (the "Available Amount"), effective immediately and expiring at 5:00 p.m., California time, on _____ (the "Expiration Date").

This Letter of Credit shall be of no further force or effect upon the close of business on _____ or, if such day is not a Business Day (as hereinafter defined), on the next preceding Business Day.

For the purposes hereof, "Business Day" shall mean any day on which commercial banks are not authorized or required to close in California.

Subject to the terms and conditions herein, funds under this Letter of Credit are available to Beneficiary by presentation in compliance on or before 5:00 p.m. California time, on or before the Expiration Date of the following:

1. The original of this Letter of Credit and all amendments (or photocopy of the original for partial drawings); and

2. The Drawing Certificate issued in the form of Attachment A attached hereto and which forms an integral part hereof, duly completed and purportedly bearing the signature of an authorized representative of the Beneficiary.

Notwithstanding the foregoing, any drawing hereunder may be requested by transmitting the requisite documents as described above to the Bank by facsimile at _____ or such other number as specified from time to time by the Bank.

The facsimile transmittal shall be deemed delivered when received. Drawings made by facsimile transmittal are deemed to be the operative instrument without the need of originally signed documents.

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 that, 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.

Banking charges shall be the sole responsibility of the Applicant.

This Letter of Credit sets forth in full our obligations and such obligations may 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 may not be deemed to incorporate by reference any document, instrument or agreement except for such attachment.

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 Issuer

Name:_____

Title:_____

ATTACHMENT A
Drawing Certificate

TO *[ISSUING BANK NAME]*

IRREVOCABLE NON-TRANSFERABLE STANDBY LETTER OF CREDIT

No. _____

DRAWING CERTIFICATE

Bank

Bank Address

Subject: Irrevocable Non-transferable Standby Letter of Credit
Reference Number:

The undersigned _____, an authorized representative of _____ (the "Beneficiary"), certifies to *[Issuing Bank Name]* (the "Bank"), and _____ (the "Applicant"), with reference to Irrevocable Nontransferable Standby Letter of Credit No. {_____}, dated _____, (the "Letter of Credit"), issued by the Bank in favor of the Beneficiary, as follows as of the date hereof:

1. The Beneficiary is entitled to draw under the Letter of Credit an amount equal to $_____, for the following reason(s) [check applicable provision]:

   [ ] A. An Event of Default, as defined in that certain Power Purchase and Sale Agreement between Applicant and Beneficiary, dated as of *[Date of Execution]* (the "Agreement"), with respect to the Applicant has occurred and is continuing.

   [ ] B. An Early Termination Date (as defined in the Agreement) has occurred or been designated as a result of an Event of Default (as defined in the Agreement) with respect to the Applicant for which there exist any unsatisfied payment obligations.

   [ ] C. The Letter of Credit will expire in fewer than 30 days from the date hereof, and Applicant has not provided Beneficiary alternative Performance Assurance (as defined in the Agreement) acceptable to Beneficiary.

   [ ] D. The Bank has heretofore provided written notice to the Beneficiary of the Bank's intent not to renew the Letter of Credit following the present Expiration Date thereof ("Notice of Non-renewal"), and Applicant has failed to provide the

Beneficiary with a replacement letter of credit satisfactory to Beneficiary in its sole discretion within 30 days following the date of the Notice of Non-renewal.

[ ] E. The Beneficiary is entitled to retain the entire Development Security (i) as a result of Applicant's failure to commence the Term by the Term Start Date, or (ii) the Agreement has terminated due to an Event of Default by Applicant before the Term Start Date.

[ ] F. The Beneficiary is entitled to retain a portion of the Development Security equal to the product of either (1) $20 per kW of Contract Capacity which Seller failed to demonstrate, if the Term Start Date occurs within 18 months of the Effective Date, or (2) $60 per kW times the kilowatts of Contract Capacity which Seller failed to demonstrate, if the Term Start Date occurs after the 18th month following the Effective Date.

2. Based upon the foregoing, the Beneficiary makes demand under the Letter of Credit for payment of U.S. DOLLARS AND ____/100ths (U.S.$_____), which amount does not exceed (i) the amount set forth in paragraph 1 above, and (ii) the Available Amount under the Letter of Credit as of the date hereof.

3. Funds paid pursuant to the provisions of the Letter of Credit shall be wire transferred to the Beneficiary in accordance with the following instructions:

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.

IN WITNESS WHEREOF, this Certificate has been duly executed and delivered on behalf of the Beneficiary by its authorized representative as of this ____ day of _____, _____.

Beneficiary: [BENEFICIARY NAME]

By: _____
Name:_____
Title:_____

**** End of Exhibit P ****

EXHIBIT Q
Seller's Milestone Schedule

No.	*Target Date*	*Milestones*

**** End of Exhibit Q ****

EXHIBIT R
Outage Scheduling Protocols and Outage Schedule Submittal Requirements

1. General Requirements.

(a) The Parties shall abide by the Outage Schedule Submittal Requirements described below and shall agree upon reasonable changes to these requirements and procedures from time to time, as necessary to:

(i) Comply with the CAISO Tariff;

(ii) Accommodate changes to their respective generation technology and organizational structure; and

(ii) Address changes in the operating and Scheduling procedures of Seller, Buyer and the CAISO, including automated forecast and outage submissions.

(b) Seller shall direct all Outage notifications to Buyer's web-based outage scheduling system or an e-mail address designated by Buyer (the "Web Scheduler") and to the Generation Operations Center, whose URL and telephone number(s) can be found in Exhibit N.

2. Seller's Availability Forecasting Submittal Requirements for all Generating Facilities.

Seller shall direct all Outage notifications to the Web Scheduler and to the Generation Operations Center (at the URL and telephone number(s) as set forth in Exhibit N). Seller shall submit maintenance and Planned Outage schedules (as defined in the CAISO Tariff under WECC rules) in accordance with the following schedule:

(a) No later than January 1st, April 1st, July 1st and October 1st of each Term Year, and at least 60 days before Parallel Operation, Seller shall submit to Buyer its schedule of proposed Planned Outages ("Outage Schedule") for the subsequent twenty four-month period using a Buyer-provided web-based system or an e-mail address designated by Buyer ("Web Client").

(b) Seller shall notify Buyer of the proposed Planned Outage schedule for the Project by the earlier of ninety (90) days before the beginning of each month or forty-five (45) days before Buyer's monthly RAR Showings must be completed in accordance with the CAISO Tariff or decision of the CPUC. The Planned Outage schedule is subject to Buyer's approval, which approval may not be unreasonably withheld or conditioned.

(c) Seller shall confirm or provide updates to Buyer regarding any Outage by the earlier of thirty (30) days prior to such Outage or two (2) Business Days prior to the CAISO deadline for submitting Outages.

(d) Seller shall provide the following information for each proposed Planned Outage:

(i) Start date and time;

(ii) End date and time;

(iii) Capacity online, in MW, during the Planned Outage; and

(iv) Reason for the proposed outage.

(e) Within 20 Business Days after Buyer's receipt of an Outage Schedule, Buyer shall notify Seller in writing of any Buyer request for changes to the Outage Schedule, and Seller shall, consistent with Prudent Electrical Practices, accommodate Buyer's requests regarding the timing of any Planned Outage.

(f) Seller shall cooperate with Buyer to arrange and coordinate all Outage Schedules with the CAISO. After any Planned Outage has been scheduled, at any time up to the commencement of work for the Planned Outage, Buyer may direct that Seller change its outage schedule as ordered by CAISO. For CAISO ordered changes to a Planned Outage, Seller shall comply with CAISO instructions. Buyer is not obligated to act to mitigate or eliminate any need for CAISO ordered changes to a Planned Outage. For non-CAISO ordered changes to a Planned Outage schedule requested by Buyer, Seller shall notify Buyer of any incremental costs associated with such schedule change and an alternative schedule change, if any, that would entail lower incremental costs. If Buyer agrees to pay the incremental costs, Seller shall use commercially reasonable efforts to accommodate Buyer's request.

(g) In the event a condition occurs at the Generating Facility which causes Seller to revise its Planned Outages, Seller shall provide Notice to Buyer, 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.

(h) Seller shall promptly prepare and provide to Buyer upon request, using the Web Client, all reports of actual or forecasted outages that Buyer may reasonably require for the purpose of enabling Buyer to comply with Section 761.3 of the California Public Utilities Code, the CAISO Tariff 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.

(i) Seller shall notify Buyer of a Forced Outage as promptly as possible, but no later than ten (10) minutes after the commencement of the Forced Outage and in accordance with the notification requirements and procedures set forth in this

Exhibit R. Buyer shall put forth commercially reasonable efforts to submit such outages to CAISO.

3. Notification. Seller shall direct all Outage notifications pursuant to the procedures below to the Web Scheduler and to the Generation Operations Center (at the URL and telephone number(s) as set forth in Exhibit N).

(a) Forced Outages. Seller shall notify Generation Operation Center's desk verbally as promptly as possible, but no later than ten minutes after the commencement of a Forced Outage, after the safety of all personnel and securing of all facility equipment.

(i) Seller will be responsible for reporting the following information when reporting Forced Outages to the Generation Operations Center:

1. Operator Name.

2. Specific Issue: outage or derate due to XXX.

3. Total Plant Availability: the current MW value the plant can generate.

4. Estimated Time of Return or ETR: Date (MMDDYYYY) and time (HH:MM) in 24H format.

(b) Routine Start-Up and Shutdowns. Prior to paralleling or after disconnecting from the electric system, Seller to always follow balancing authority rules and notify the applicable Transmission Provider's switching center.

(i) Call the applicable Transmission Provider's switching center and the Generation Operations Center to advise of the intent to parallel before any start-up.

(ii) Call the applicable Transmission Provider's switching center and the Generation Operations Center after the Generating Unit has been paralleled and report the parallel time and intended Generating Unit output.

(iii) Call the applicable Transmission Provider's switching center and the Generation Operations Center after any routine separation and report the separation time as well as the date and time estimate for return to service.

4. Restrictions.

(a) Seller shall make reasonable efforts not to schedule an Outage during the Peak Months.

(b) When scheduling an Outage, the notification time shall be rounded to the nearest hour. For example: 11:29 becomes 11:00 and 11:30 becomes 12:00.

(c) Seller may not schedule an Outage that overlaps another Outage or Curtailment Period already scheduled on the Generating Facility.

**** End of Exhibit R ****

EXHIBIT S

[Intentionally Omitted]

**** End of Exhibit S ****

EXHIBIT T-1
QF Efficiency Monitoring Program – Cogeneration Data Reporting Form

[Buyer's address]
Buyer's telephone number and email address]

[Previous Year]

I. Name and Address of Project

Name: _____

Street: _____

City: _____ State: _____ Zip Code: _____

ID No.: _____ Generation Nameplate (KW): _____

II. In Operation: Yes ☐ No ☐

III. Can your facility dump your thermal output directly to the environment? Yes ☐ No ☐

IV. Ownership

	Name	Address	Ownership (%)	Utility	
1				Y	N
2				Y	N
3				Y	N
4				Y	N
5				Y	N

V. [PrevYear] Monthly Operating Data

- Indicate the unit of measure used for your useful thermal output if other than mBTUs:
  BTUs _____ Therms _____ mmBTUs _____
- If Energy Input is natural gas, use the Lower Heating Value (LHV) as supplied by Gas Supplier.

	Useful Power Output (kWh)	Energy Input (Therms)	Useful Thermal Output (mBtu)
Jan			
Feb			
Mar			
Apr			
May			
Jun			
Jul			
Aug			
Sep			
Oct			
Nov			
Dec			
Yearly			
Total			

**** End of Exhibit T-1 ****

EXHIBIT T-2
Fuel Use Standards – Small Power Production Facility Data Reporting Form

[Buyer's address]
Buyer's telephone number and email address]

[Previous Year]; ID NO. _____

I. **Name and Address of Facility ("Project")**

Name: _____

Street: _____

City: _____ State: _____ Zip Code: _____

Generation Nameplate (KW): _____

II. **Primary Energy:** ☐ **Biomass** ☐ **Waste** ☐ **Solar** ☐ **Other:** _____

III. **Ownership**

	Name	Address	Ownership (%)	Utility	
1				Y	N
2				Y	N
3				Y	N
4				Y	N
5				Y	N

IV. **[PrevYear] Monthly Operating Data**

	Useful Power Output (1) (kWh)	**Primary Energy Source (2) (mBTU)**	**Supplementary Energy Source (3) (mBTU)**	**Total Energy Input (4) (mBTU)**
Jan				
Feb				
Mar				
Apr				
May				
Jun				
Jul				
Aug				
Sep				
Oct				
Nov				
Dec				
Total				

(1) Useful Power Output is the electric or mechanical energy made available for use from the facility.
(2) The Primary Energy Source must be biomass, waste, renewable resources, or geothermal resources. Use Lower Heating Value (LHV)
(3) The Supplementary Energy Source is the use of fossil fuel. Use Lower Heating Value (LHV)
(4) Please use Total Energy Input to include all energy sources: primary, supplementary, and auxiliary power from outside the facility.

**** End of Exhibit T-2 ****

EXHIBIT U
Economic Dispatch Down

This Exhibit U applies only when Buyer is the Scheduling Coordinator.

If a Generating Facility is subject to delivery curtailments under Economic Dispatch Down in any Settlement Interval, Seller may be eligible for Deemed Delivered Energy payments for the volume of energy not delivered subject to the Economic Dispatch Down.

SDD Adjustments are not applicable (i) during Economic Dispatch Down periods, which shall include any intervals required to ramp down the generation, and (ii) to the calculation of Deemed Delivered Energy under Economic Dispatch Down occurrences.

For Seller to qualify for Deemed Delivered Energy payments, (i) if the Generating Facility is PIRP certified, Seller must utilize the PIRP Forecasting Program for scheduling or (ii) if the Generating Facility is not PIRP certified, then the Deemed Delivery Forecast, as updated for any Outages, will be utilized for Deemed Delivered Energy determinations.

1. PIRP Forecasting Program Requirements. Seller shall cause the Project to become a Participating Intermittent Resource, including executing all necessary documents to become a Participating Intermittent Resource. Seller shall be responsible for all CAISO forecasting fees and related CAISO Charges associated with the Project becoming a Participating Intermittent Resource and participating in the PIRP Forecasting Program. Seller and Buyer shall comply with the PIRP Forecasting Program, and all additional protocols issued by the CAISO relating to Participating Intermittent Resources, including the PIRP Forecasting Program, for the Seller shall provide Buyer with a copy of the notice from the CAISO certifying the Project as a Participating Intermittent Resource prior to the Term Start Date. In the event that the PIRP Forecasting Program or the CAISO Tariff and/or any protocols relating thereto are changed, amended, modified replaced or terminated, Seller and Buyer agree to comply with such revisions and, to the extent practical, to implement such revisions in a manner that maintains the relative economic positions of the Parties as of the date of this Agreement.

2. System Requirements. Seller shall acquire, install, and maintain such facilities, communications links and other equipment, and implement such protocols and practices, as necessary (i) for Seller to respond and follow instructions, including an electronic signal conveying real time instructions, to operate the Project as directed by the Buyer and/or the CAISO, including to implement a Power Product Curtailment or an Economic Dispatch Down in accordance with the then-current methodology used to transmit such instructions as it may change from time to time, and (ii) for Buyer and/or the CAISO to control the quantity of Product generated by the Project in order to implement a Power Product Curtailment or an Economic Dispatch Down, in each case, in accordance with the then-current methodology used to transmit such instructions as it may change from time to time. As of the Effective Date, the systems required to comply with the foregoing clause (i) include, at a minimum, the CAISO's Automatic Dispatch System (as described in the CAISO website) and the systems required to comply with the foregoing clause (ii)

include, at a minimum, the CAISO's Application Programming Interfaces (as described in the CAISO website). If at any time during the Delivery Term Seller's facilities, communications links or other equipment, protocols or practices are not in compliance with then-current methodologies, Seller shall take all commercially reasonable steps necessary to become compliant as soon as possible. Seller shall be liable for all CAISO Charges pursuant to the forecast delivery requirements of Exhibit I and scheduling requirements of Exhibit R resulting in a failure to comply with an order directing an Economic Dispatch Down, during the time that Seller's facilities, communications links or other equipment, protocols or practices are not in compliance with then-current methodologies. For the avoidance of doubt, an order directing an Economic Dispatch Down via such systems, facilities or equipment shall have the same force and effect on Seller as any other form of communication. If an electronic submission of such an order is not possible, Buyer and/or the CAISO may provide Notices (in order of preference) by electronic mail, telephonically, or via facsimile transmission, in each case to Seller's personnel designated to receive such communications (as set forth in Exhibit N) and Seller shall maintain communications systems necessary to permit such transmittal of such Notices.

3. Deemed Delivered Energy Determination

Deemed Delivered Energy (*DDE*) shall be calculated as follows:

DDE = Min (A,D) – Max (B,C)

Where:

A = Deemed Delivery Forecast

B = energy (MWh) as instructed during an Economic Dispatch Down period. For the purpose of calculating DDE, the energy (MWh) as instructed during an Economic Dispatch Down period shall be the total Expected Energy.

C = energy delivered to the Delivery Point during the Economic Dispatch Down period.

D = Maximum Potential Energy

4. Failure to Comply. If Seller fails to comply with an Economic Dispatch Down requested in accordance with this Exhibit U or a Power Product Curtailment in accordance with Section 3.15, then, for each MWh of energy that the Project generated in contradiction to the Economic Dispatch Down or Power Product Curtailment, Seller shall pay Buyer for each such MWh at an amount equal to the sum of (A) + (B) + (C), where: (A) is the amount, if any, paid to Seller by Buyer for delivery of such MWh (for example, the Monthly Contract Payment); (B) is the absolute value of the Real-Time Price for the applicable PNode, if such price is negative, for the Economic Dispatch Down period or

Curtailment Period; and (C) is any penalties or other charges resulting from Seller's failure to comply with an Economic Dispatch Down or a Power Product Curtailment.

Neither Party shall be subject to a double payment or a double charge for energy settlements from the Generating Facility pursuant to this Agreement and the CAISO settlement process. To facilitate that, the Parties acknowledge that Energy Payment and RA Capacity Payment calculations under this Agreement are intended to produce a final economic result that is consistent with the fundamental transaction implemented by this Agreement.

**** End of Exhibit U ***

(END OF ATTACHMENT 1)